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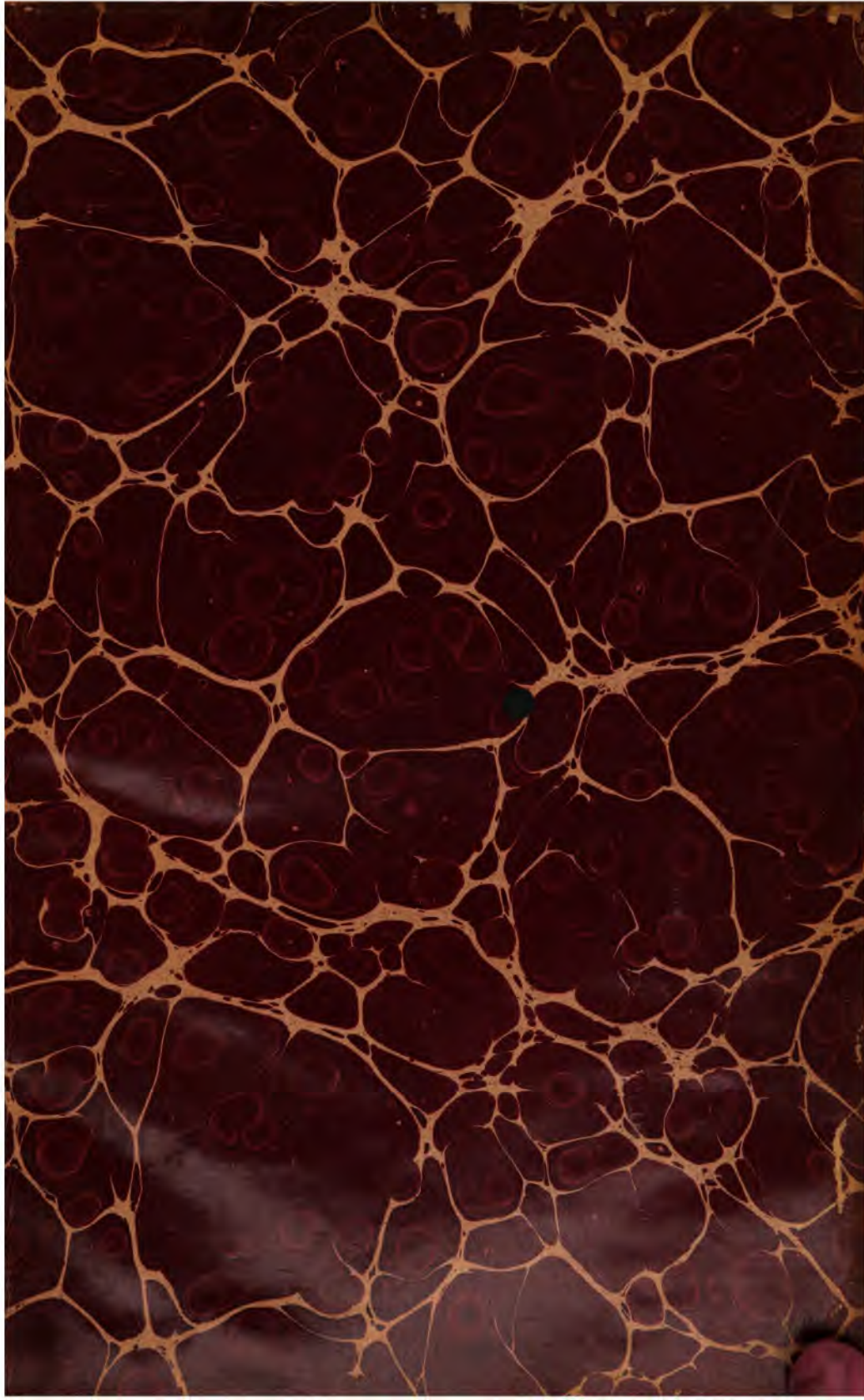


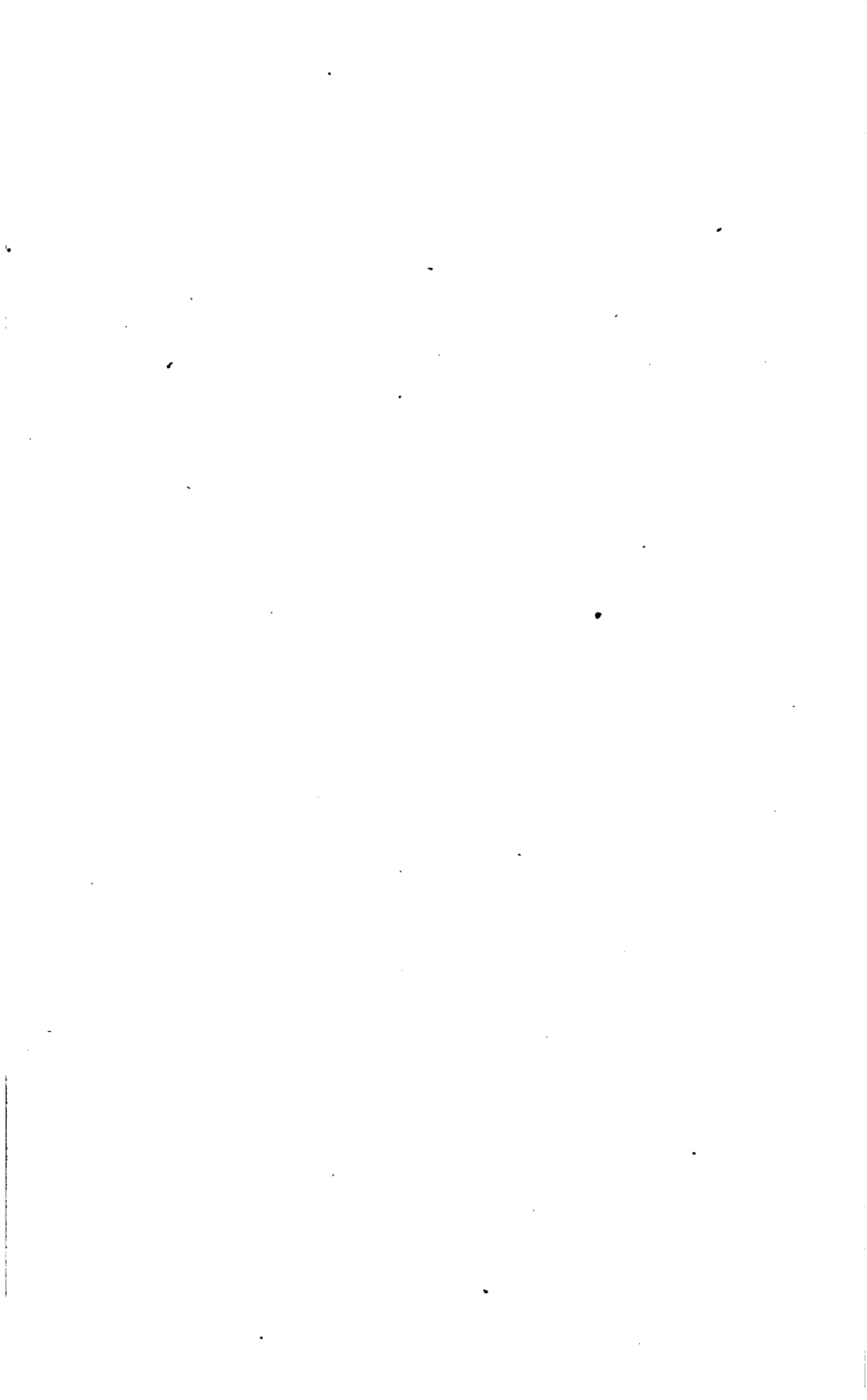
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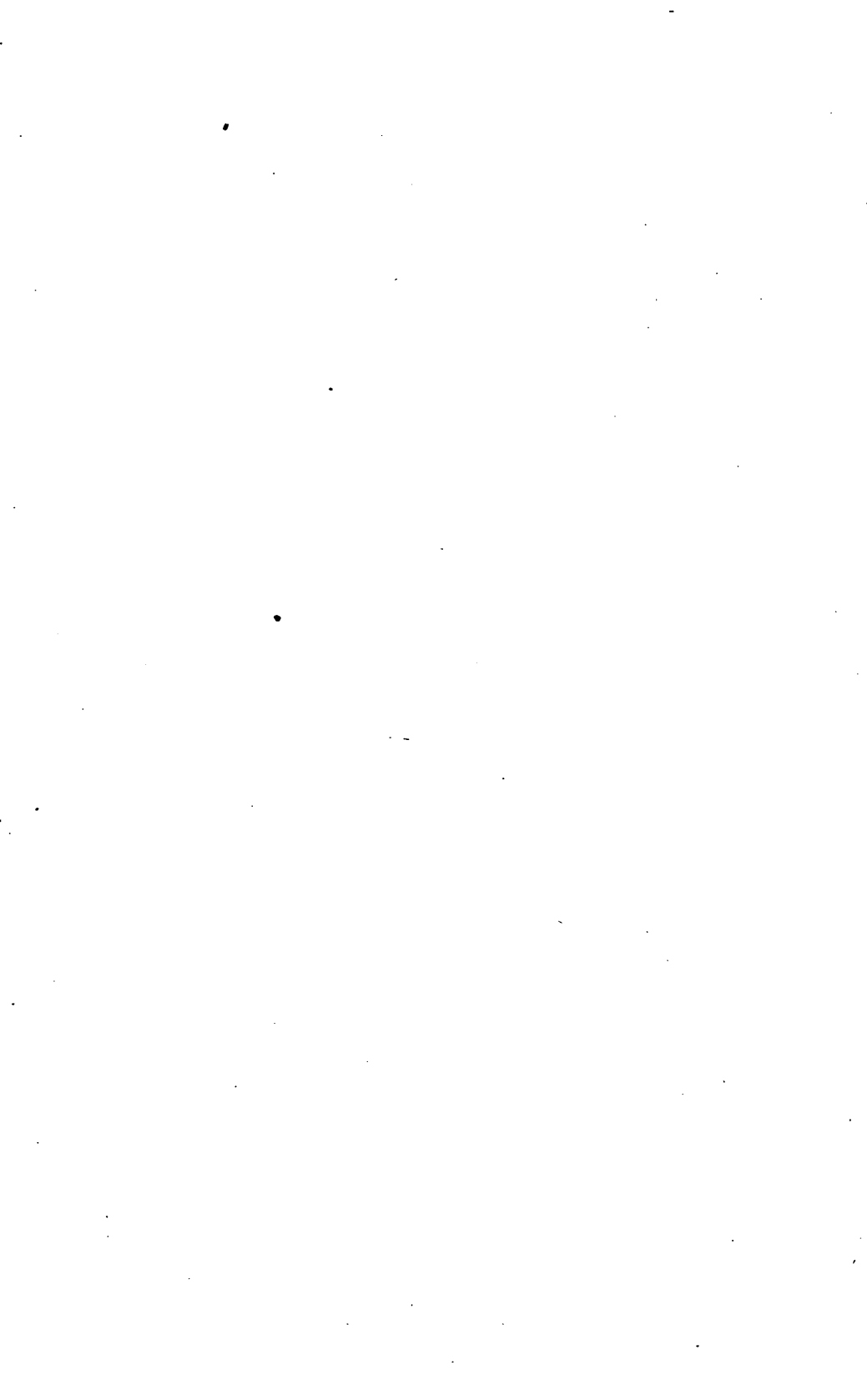
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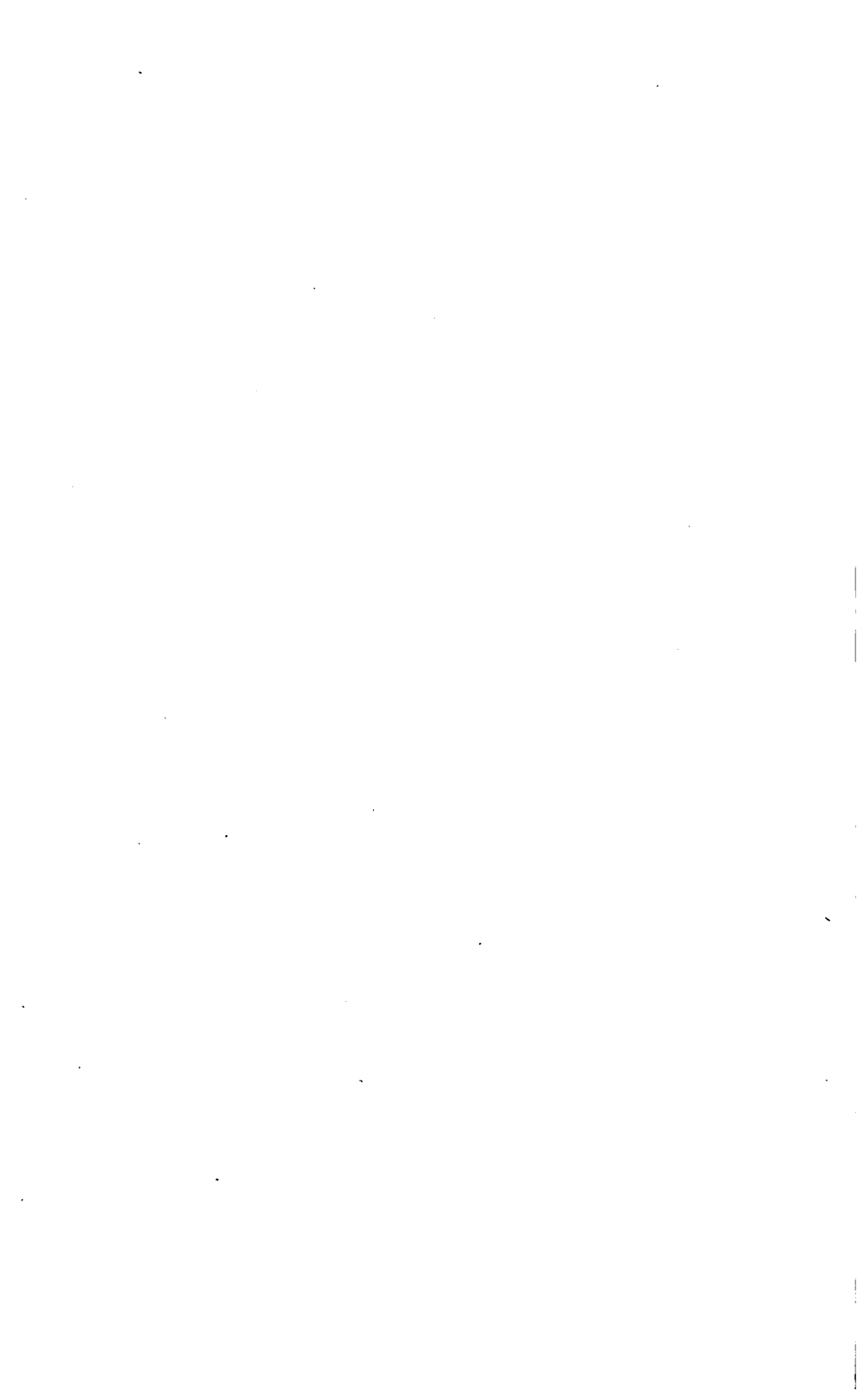
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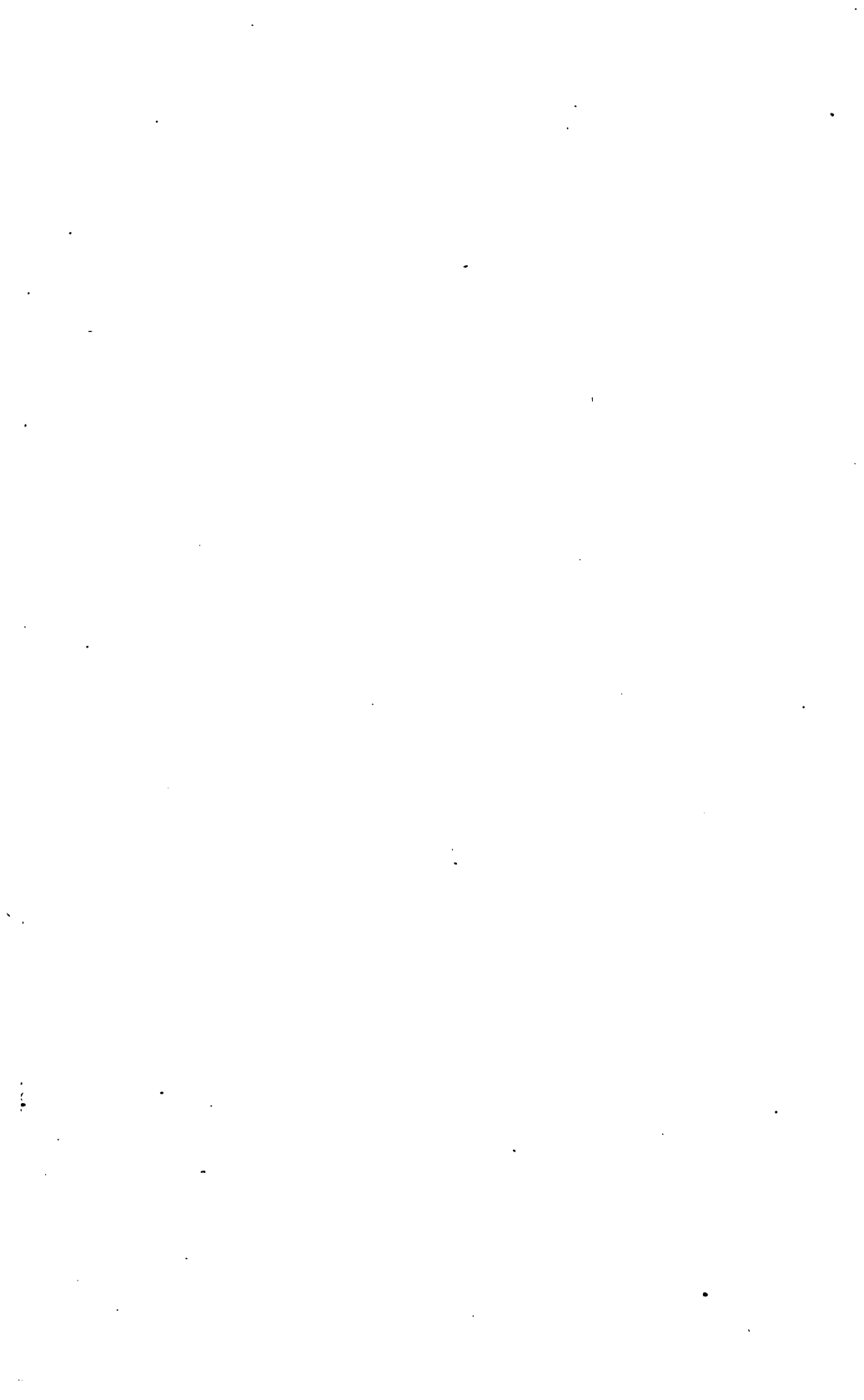


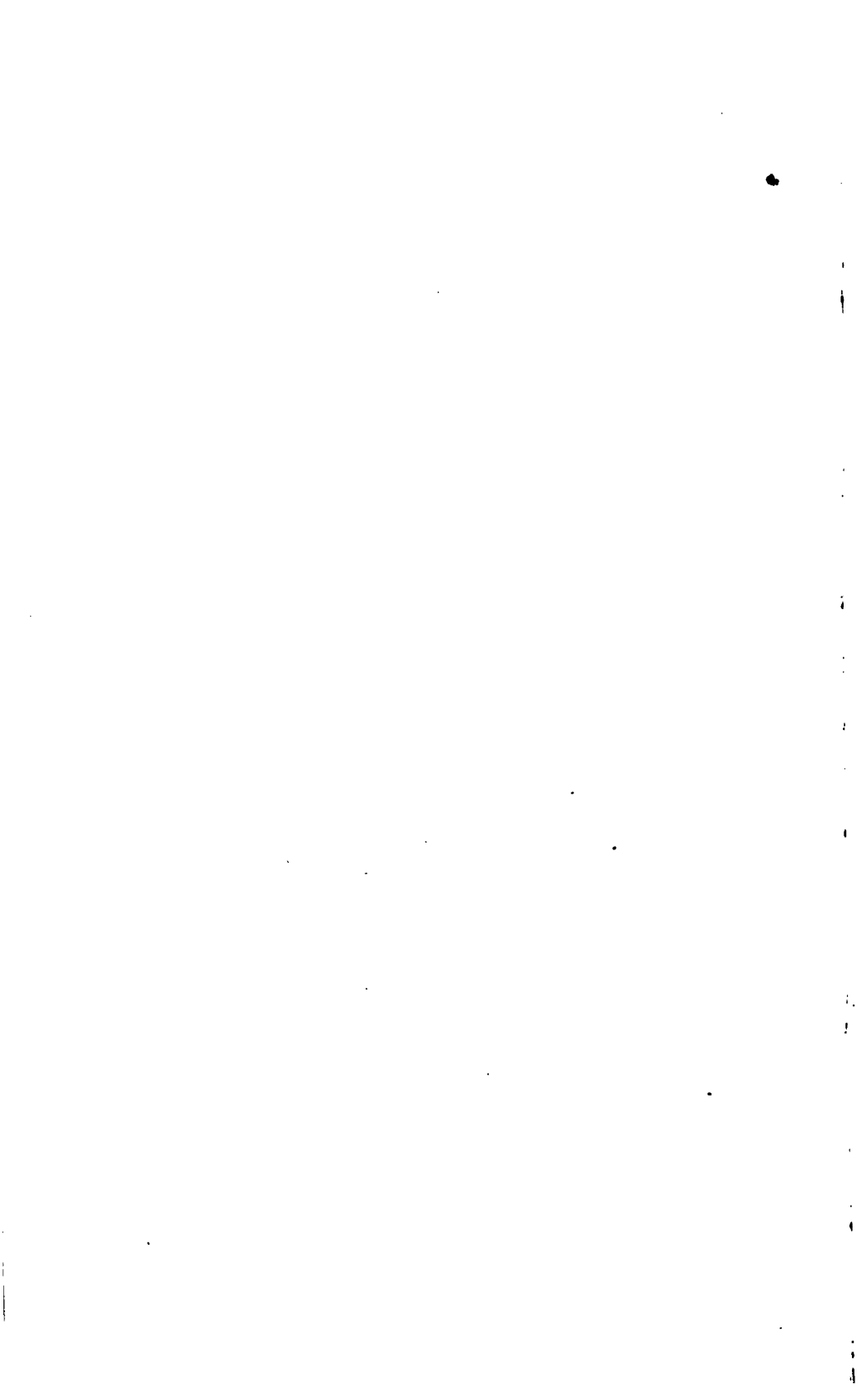












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HEARING

ON

PROHIBITION IN THE PROPOSED STATE OF OKLAHOMA

BEFORE

U. S. Congress, House

THE COMMITTEE ON THE TERRITORIES,

HOUSE OF REPRESENTATIVES.

1905

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PROHIBITION IN THE PROPOSED STATE OF OKLAHOMA.

COMMITTEE ON THE TERRITORIES,
Wednesday, December 13, 1905.

The committee met at 3 o'clock p. m., Hon. Edward L. Hamilton in the chair.

The CHAIRMAN. How many gentlemen are there who desire to be heard this afternoon?

Mr. SWEET. Mr. Chairman, we have not been able to notify all the gentlemen who are in the city who desire to be heard upon this proposition. It will depend somewhat upon how much time we have. There are here this afternoon four or five gentlemen ready to be heard.

The CHAIRMAN. Kindly apportion the time, doing proper justice to yourselves, of course.

I desire in this connection to inquire, Mr. Jones, whether you have anyone here who desires to be heard?

Mr. JONES. I would state, Mr. Chairman and gentlemen of the committee, that last year when you had this bill up you gave us ninety days to discuss it, and in behalf of a large delegation here from Oklahoma and the Indian Territory we are willing absolutely to submit this case to the committee without argument. We are willing to leave it with this committee, and, whatever this committee does, we are willing to submit to your decision in the matter, but if the other side is not willing to do so, we reserve the right to present our side of the question at the proper time.

The CHAIRMAN. Have you anyone to present this afternoon?

Mr. JONES. Yes, sir; with the understanding that we would prefer that the other gentlemen should present their side of the case and then when they get through we will present our side. We will not take up much time. We trust that the entire argument may be closed this afternoon. I take it for granted with this committee that it is not a matter of sentiment, and I take it for granted that this committee knows all about the treaties. If they do not, they can find them. But I take it for granted that this committee knows more about them than we do or than we can tell the committee, and, as I say, we are perfectly willing to submit it to the court without further argument. We are perfectly willing to hear the other gentlemen—will be glad to hear them—and our side will take up very little of your time.

The CHAIRMAN. You may proceed, Mr. Dinwiddie.

STATEMENT OF REV. EDWIN C. DINWIDDIE, LEGISLATIVE SUPER-INTENDENT AMERICAN ANTI-SALOON LEAGUE, 30 AND 31 BLISS BUILDING, WASHINGTON, D. C.

Mr. DINWIDDIE. Mr. Chairman and gentlemen of the committee: I think I ought to say at the commencement that while the other side of this proposition say they had ninety days last year, I do not understand that they had any time here last year, because the bill was not before this committee, in one sense, last year. He certainly refers to two years ago, when the Hamilton bill was before this committee.

The question may arise in the minds of the members of the committee as to why the same opposition which now exists to the passage of the statehood bill without the provisions which we seek did not make itself manifest then, two years ago. That is explained in a few words. I stated it this morning in brief, that our people in the Indian Territory were relying upon the express stipulations of the Federal Government through the Dawes Commission, which negotiated the treaties with the Five Civilized Tribes, and which treaties were later incorporated into laws by Congress, believing that they would be religiously observed. They were not carried out, as we believe, in the provision in the bill which passed the House two years ago.

If you will permit me to do so, I would like to refer to the provision that was in the bill two years ago. I have not a copy of that bill; I tried to get it this afternoon, but was unsuccessful; but I think it has been reincorporated in your bill, H. R. 3186, of the present session. It was provided that "the sale, barter, or giving away of intoxicating liquors to Indians was forever prohibited." I stated last year, when the subject was before the Senate in considering H. R. 14749—and I ask the attention of the chairman particularly to this, on account of the fact that he asked me about it this morning—that if the Federal law forbidding the sale of intoxicating liquors to Indians was valid, this provision in the bill was absolutely unnecessary, as it forbids such sales everywhere throughout the national domain, and I stated that if that law was not upheld, then the incorporation in the irrevocable ordinance or in the constitution of the new State of a similar provision would be equally futile, as it would doubtless contravene the fourteenth amendment to the Federal Constitution. Fortunately there has come to clarify the atmosphere on this question the decision of the Supreme Court of the United States in a case that was pending when our measure was before the Senate last year, namely, the case of *Heff* against the State of Kansas, which is reported in *United States Reports*, volume 197, page 488. I will not take the time of the committee to read that case, but I will read a portion of the syllabus, which is the law of course:

The act of January 30, 1897 (29 Stat. L., 506), prohibiting sales of liquors to Indians, is a police regulation, and does not apply to an allottee Indian who has become a citizen under the act of February 8, 1887.

So that, under the decision of the Supreme Court of the United States, this provision of the Federal statute falls unless, according to a definite decision in the syllabus, the Indian and the State of which he is a citizen give their consent to the exercise of such jurisdiction by the Federal Government. And if this provision is placed

in the constitution or the irrevocable ordinance of the new State as now incorporated in H. R. 3186, now before your committee, it is scarcely questionable that it will fall whenever it is attacked by any person in interest as repugnant to the fourteenth amendment. However, we do not rest our case upon the ground that there must be a law prohibiting the sale of liquor to Indians. We rest our case upon the proposition that the United States, the people of the whole United States, are vitally interested in this matter, and that our national honor itself is involved; and here, I want to say parenthetically, is where the people who do not live in Oklahoma and the Indian Territory get into this proposition. I think I am perfectly right in saying that this proposition which we advance before the committee is a proposition that does not concern only the people of Oklahoma and the Indian Territory.

The Dawes Commission negotiated the various treaties with the Indians, which were later ratified by different acts of Congress, itself representing the whole people of the United States, and approved by the Executive; and it seems to me that there is a question of honor involved on the part of the people of every State in the Union. It does not concern simply the people who live in that Territory or those Territories; it is a matter of national honor as to whether treaty obligations of the Federal Government ought to be respected and lived up to, or whether they should simply be brushed aside and no attention paid to them simply because we have the legal power, though no moral right, to do so, or whether we shall in honor live up to what we solemnly agreed with these people to do.

In this connection permit me to read just a few lines from the report which the President submitted to Congress only about a year and a half ago from the Hon. Charles J. Bonaparte, who, with my friend Hon. Clinton Rogers Woodruff, of Philadelphia, was appointed a commissioner to investigate certain conditions and affairs in the Indian Territory, and who is now Secretary of the Navy. He said:

To appreciate this situation one must remember the obligations of the Government to the so-called "Five Civilized Tribes." These tribes consented to give up their habitations in other parts of the United States and remove to the Territory in return for certain solemn and explicit pledges made to them by the United States, embodied in treaties ratified with all needful constitutional formalities, and further evidenced by numerous official documents of the highest authority. The removal of these Indians to their new homes was desired and effected by our Government to serve grave ends of public policy, and their consent to it constituted an ample consideration for the promises made them in return. If these promises are not binding on the United States, then our Government and people can be bound by no treaty. If we do not scrupulously respect the rights flowing from these treaties, no one can reasonably place confidence in our national honor.

That does not come from me; that is the statement of one of the Cabinet officers in the United States to-day.

I want to say that I have the honor in this connection to represent to a very large extent the people over the whole country who take this view of the matter—that this is their concern; that they, through their Representatives in Congress, are bound by these treaty obligations, and that they have some rights in this matter, as well as the people who reside in the Territories. In this connection I want to read, Mr. Chairman, resolutions adopted by several very important

bodies, representing, as they do, large numbers of citizens who are themselves vitally, as they believe and as I believe, interested in this question.

In the first place, there was the Indian affairs conference, that body which meets annually through the courtesy of a well-known friend, Mr. Albert K. Smiley, who is a lifelong friend of the Indian, at Mohonk Lake, N. Y., and which has had a great deal to do with shaping the policy of the Federal Government in the handling of the difficult Indian problems of late years. The Lake Mohonk conference last year adopted resolutions strongly asking for the retention of prohibition in the Indian Territory, and this year, after the Senate, upon our request, passed, by a vote of 52 to 17, an amendment covering our present claim, which was satisfactory to our people, they said in the convention at Lake Mohonk on the 18th-20th of last October, as follows:

This conference expresses its hearty appreciation and approval of the very decided stand taken by the Senate of the United States at its last session in favor of the continued maintenance of prohibition in the State of which it was proposed to make Indian Territory a part, and urges that there shall be no receding from the position upon prohibition then taken by the Senate.

I hold in my hand also the resolution adopted by the National Grand Lodge of the Independent Order of Good Templars, representing almost every State in the Union:

Resolved, That the treaty obligations of the Federal Government to the Five Civilized Tribes with respect to prohibition in the Indian Territory should be religiously observed, and we cordially commend the United States Senate for the adoption, by a vote of over three to one, of a prohibition provision in the Indian Territory and Oklahoma statehood-enabling act in the last Congress in harmony with said treaties, and we urge the Fifty-ninth Congress to insist upon a similar effective prohibition clause to be incorporated in the constitution of any new State of which Indian Territory shall be the whole or a part.

I hold in my hand also copy of the resolution adopted at Indianapolis by the American Anti-Saloon League, and I may say here that I have the honor officially to represent this movement in this matter, as upon all legislative matters, at the national capital. Our work is now going forward in forty States and Territories of the Union and has a constituency of upward of eight or ten millions of people who feel themselves vitally concerned in the question now before this committee.

The CHAIRMAN. I suppose something in the nature of the Galinger-Stone amendment would be satisfactory to you?

Mr. DINWIDDIE. That is, of course, what we would like to have in the bill, with possibly two slight modifications. I think that the maximum penalty which was put in ought to be eliminated, leaving it to the judgment of the new State by their legislature or in their constitution, as the case may be, to fix that. I will digress, if you will allow me, and give you in a very succinct form the history of our amendment on this subject in the Senate last year.

The CHAIRMAN. Before you proceed, and in this connection, there is another question that I would like to ask you, and that is this, whether you have considered and would be able to present an argument as to whether a State might not change the temperance provision?

Mr. DINWIDDIE. Yes, sir; I am frank to say that I have given con-

sideration to that feature, and while I am not a constitutional lawyer, being a minister and therefore a layman from the standpoint of the law, as I said last year on the Senate side, I nevertheless believe positively that this State could, after it comes into the Federal Union, by amendment of its organic law by the method prescribed therein, alter or eliminate this provision which we desire to have inserted in the constitution. We believe that there is such a strong sentiment in the Indian Territory for this provision, and it is an increasing sentiment, that the moral effect will be such that the new State will retain the provision and effectively use it. As long as those Territories remain Territories the Federal Government can discharge its obligation absolutely, because it has exclusive jurisdiction over the Territories of the Union, but the moment the status of the Territories is changed and they become a State or States, as the case may be, we concede that what you suggest is a possibility. The State in its sovereign capacity can alter its organic law.

The CHAIRMAN. I only suggest those practical matters for your consideration.

Mr. DINWIDDIE. I so appreciate them. I may say that all of these matters were up last year when we were discussing this question on the other side. I think it can be done. I think probably it would not be done. At any rate, our people are willing to take their chances.

Mr. POWERS. Your idea is that the provision of the Constitution of the United States which says that when a State has been admitted it shall be the equal of every other State—that is substantially the language—applies to the status of the State after it has been admitted?

Mr. DINWIDDIE. Yes, sir; practically. Because, as I understand, the State of Oklahoma or any other State that may be admitted in this way will come in after passing the constitution and certifying it to the President, who will then be instructed or authorized by this act to admit the State.

Mr. POWERS. Take the Territories of Oklahoma and the Indian Territory, what is the general sentiment there as to prohibiting the manufacture and sale of intoxicating liquors?

Mr. DINWIDDIE. There are those here who can better answer that question.

Mr. POWERS. What is your view?

Mr. DINWIDDIE. I would prefer to have them speak, but I will say from my observation, from what has come to me, that I think there is a preponderance of sentiment in the Indian Territory favorable to the continuance of prohibition, which has existed for seventy-three years in that country. I want to call attention to the fact that we are not asking for a new order of things in the Indian Territory. The order for which we contend and for which we plead has existed in the Indian Territory for seventy-three years. I think there is a preponderance of sentiment among all classes in the Indian Territory, and I am frank to say, and I want to be entirely frank with the committee and public, that if the proposition was simply in regard to the Indian Territory, and we are not in this question of separate or joint statehood at all, I would not be before this committee pleading, because the Indian Territory would, in my judgment, be abundantly able to take care of itself.

Mr. POWERS. At the constitutional convention?

Mr. DINWIDDIE. Yes, sir. Just a word further. The bill which I understand is likely to be recommended by the committee and which was passed in the last Congress, so far as Oklahoma and the Indian Territory are concerned, is a bill that proposed to unite Oklahoma and the Indian Territory in one State. I have not examined the provisions of the bill this year, but the bill two years ago, as it passed the House, and, I think, passed the Senate last year, provided for a preponderance of representation in the constitutional convention and the general assembly from the Territory of Oklahoma, so that the Indian Territory, whose interests are vitally involved in this proposition, was absolutely outnumbered at the start.

The CHAIRMAN. It provided for a majority of one in the constitutional convention, but we are thinking very seriously of giving them an equal number in the constitutional convention this time.

Mr. DINWIDDIE. That is just one better than it was before.

The CHAIRMAN. That is certainly equal.

Mr. DINWIDDIE. But still it will not cover the case.

The CHAIRMAN. I only want you to understand the situation as you go along.

Mr. DINWIDDIE. I appreciate your doing so. But, as I said, I should not be here if the proposition was simply one affecting the Indian Territory. I do not mean by this to say that the obligation of the Federal Government would be any less, or that we should fail to insist upon its obligations being carried out; but we are firmly of the opinion that the people of Indian Territory, if they were to be admitted to statehood alone, would present a constitution with a strict prohibition provision incorporated therein, and, indeed, I understand that the constitution of the proposed State of Sequoyah does contain a strong prohibitory provision. This constitution was adopted by a vote of the people in Indian Territory by nearly 50,000 majority, 56,000 voting for the constitution containing this provision and only about 9,000 voting against it.

Mr. POWERS. Have you prepared your amendment to the bill?

Mr. DINWIDDIE. The Gallinger-Stone amendment with the elimination of the maximum penalty, and we are willing to concede another thing—the exception of the sale of intoxicating liquors for medicinal and mechanical purposes, if the amendment be carefully drawn. You know what that means, Governor Powers, because you have a provision of that kind in your own State and we have a similar provision in my State, and in many others of which I know. If the provision is carefully drawn we are ready to say that it is proper to except liquors for those legitimate purposes.

The CHAIRMAN. I think you had better superintend the drawing of that amendment.

Mr. DINWIDDIE. That would be very satisfactory to us.

Mr. POWERS. Permit me to say that your proposed change in the Gallinger amendment was one which commended itself to my judgment in the committee of conference.

Mr. DINWIDDIE. At the time?

Mr. POWERS. A year ago.

Now, another thing. Suppose you put this provision in the constitution—I have lived in a State where we have these provisions in the constitution, and yet for many years they did not enforce them

as they do now—suppose you put the provision in the constitution and the convention gets together and includes that in the constitution and then a legislature is elected. I will suppose that the sentiment of the people constituting that legislature is such that it does not pass acts prescribing penalties for enforcing prohibition. How far can you go?

Mr. DINWIDDIE. That leads me up to what I had intended to say in regard to the history of this proposed legislation. We suggested an amendment providing for Federal control of the subject-matter in the new State for a period of twenty-one years, covering the time and period during which the Indians would not be permitted to alienate their homesteads. You understand what I mean. I want to be frank with the committee and say that we found ourselves up against a practical proposition. We found that while there was a very large sentiment unqualifiedly in favor of guarding the interests of the Indians and their neighbors on this proposition, out in the Indian country they did not sufficiently approve it, and we, of course, ascertained this condition in ample time to make them willing to put it in any such shape that the Federal Government could go in and exercise Federal jurisdiction over this matter in a sovereign State after it came into the Union.

Mr. WEBB. Have you sought information as to whether or not it would be a violation of law and indictable to violate the constitution, if you should put this in the constitution, even though the legislature refused to enact the legislation?

Mr. DINWIDDIE. Senator Stone took the view that we would not be absolutely without redress even though they should not prescribe adequate penalties for violations. Senator Stone, of Missouri, believing firmly in the necessity for some safeguard of this kind, prepared an amendment to secure its execution, and penalties for the violation of the provisions of the constitution were prescribed in the Gallinger amendment as amended by Senator Stone; that covers them during the interregnum before the beginning of the State's jurisdiction. The Gallinger amendment was simply for Federal jurisdiction over a matter conceded to be in the hands of the State after it came into the Union, but what the Senate finally passed was an amendment which prescribed that prohibition should obtain in the new State for a period of twenty-one years and thereafter until the people of the said new State should otherwise decree, and it added the required penalties for violations of the law in case the legislature might be either dilatory in meeting or should fail to adopt proper penalties for violations, but eliminated the provision for the exercise of Federal jurisdiction in the new State.

Mr. WEBB. If the penalty is prescribed in the constitution for the violation of this prohibitory ordinance—set out in the constitution—do you not think it would be unnecessary to put in your twenty-one-year provision, and if you did, would you not be limiting the sovereignty of the State?

Mr. DINWIDDIE. Hardly, because you can not limit the sovereignty of the State. It amounts simply to this, to a contract between the Federal Government, which agrees to release its jurisdiction over the Territories to compose the proposed State, and the State, which asks for admission into the Union, and our people down there are willing to

trust to the honor of the people of that State. You could not limit the sovereignty or power of the new State if you chose. Possibly twenty-one years is a long time, but it seems to me that a period of ten years or twelve years or something like that ought to be reasonably considered as constituting to some degree the moral obligations on the part of the State in consideration for what the Federal Government does.

I will give you these resolutions. I think I have said that the Anti-Saloon League is represented in 40 States and Territories, a federation of the church and temperance people of the country, outside of party lines and outside of differences upon other questions. I need not say to the committee and, so far as that is concerned, to our friends who are here from Oklahoma and the Indian Territory that our organization has religiously held aloof from the question as to whether there shall be two States or whether there shall be one State created out of the two Territories—Oklahoma and the Indian Territory.

This is the resolution of the Anti-Saloon League of America:

Whereas, by common consent, the wisdom and propriety of the prohibition of the importation and sale of intoxicating liquors in the Indian Territory has been recognized for almost three-quarters of a century; and

Whereas the conditions which now exist and which will be intensified under statehood demand the continuance of this policy if the welfare of the Indians is to be conserved; and

Whereas we have had actual examples of the demoralizing and fatal consequences of liquor selling to and among the Indians since the Supreme Court's decision in the *Heff* case last spring:

Therefore we invite the attention of the President and Congress of the United States and of the Christian and moral public to the following considerations:

The Federal Government is under solemn treaty pledges to the Five Civilized Tribes of Indians to prevent the sale of intoxicating liquors within their territory. This was one of the specific conditions upon which these Indians agreed to discontinue their tribal governments and have their lands allotted in severalty. Failure to keep this agreement would be a violation of our national honor. The conscience of this Christian nation can not stand for bad faith.

The Federal Government can not in honor surrender its authority in Indian Territory unless its successor, the proposed State, whether it comprise Indian Territory, or Oklahoma and Indian Territory, shall be willing to assume this obligation to the Indians. While we remain absolutely neutral on the question of the kind of statehood per se, we nevertheless record a firm conviction that the people of Oklahoma, much as they are entitled to statehood for what they are and what they possess, are not warranted in asking statehood with Indian Territory at a disregard of our solemn treaty contracts with the Indian tribes. We therefore record our thanks to the honorable Senate of the United States for the passage of the Gallinger-Stone amendment to the statehood bill last winter, by a vote of more than three to one, and we do hereby memorialize the Congress to make adequate provision in the enabling act for the effective prohibition of the liquor traffic in whatever act may be passed giving statehood to Indian Territory, whether separately or jointly with Oklahoma, and that such prohibition be made to apply alike throughout the bounds of such State.

We heartily indorse the splendid utterances of President Roosevelt touching civic honor when he said: "No nation, no matter how glorious its history, can exist unless it practices"—practices, mind you, not merely preaches—"civic honesty, civic decency, civic righteousness. No nation can permanently prosper unless the Decalogue and the Golden Rule are its guides in public as in private life."

There was a resolution adopted by the Inter-Church Conference on Federation in New York on November 21, 1905, representing 18,000,000 communicant members of the Christian churches of this country and doubtless as many more adherents. This conference

probably spoke for thirty-five or thirty-six millions of our people. This is the only resolution that was adopted by that representative body pertaining to national legislation, although it was deluged with requests from various sources to do so.

Whereas the Indian Territory, either separately or in connection with Oklahoma, is likely soon to be erected into a State; and

Whereas during the seventy-three years that Indians have been the wards of the Federal Government that Government has protected them by a fixed prohibition of the traffic among them of intoxicating liquors; and

Whereas the Five Civilized Tribes agreed to the surrender of their tribal organizations and the allotment of their lands only after a pledge had been made to them by the United States that such prohibition should be continued, which agreement is still binding upon the American people: Therefore, be it

Resolved, That this interchurch conference on federation respectfully reminds the Congress of the United States of this obligation and insists that no State constitution covering the Indian Territory shall be accepted unless said constitution contains adequate provision for the prohibition of the liquor traffic within the proposed State.

Signed on behalf of the conference.

WILLIAM H. ROBERTS, *Chairman*.
FRANK MASON NORTH, *Secretary*.

I am also authorized to speak for the General Assembly of the Presbyterian Church in the United States, the General Assembly of the United Presbyterian Church of North America, and the General Synod of the Evangelical Lutheran Church in the United States of America upon this proposition, and in addition the great Methodist Church of this country has specifically and officially asked us to speak to you upon this question and to urge the continuance of effective prohibition in Indian Territory, in harmony with our treaty obligations.

By your courtesy, I shall reserve further remarks until I close the argument for the proponents of the prohibition amendment, just before the conclusion of these hearings, and will not take further time myself this afternoon.

STATEMENT OF MR. S. H. RUSSELL, ARDMORE, IND. T.

Mr. RUSSELL. Mr. Chairman and gentlemen of the committee, this matter has been a long time before Congress, and I know that you gentlemen are in possession of all the facts connected with the conditions in Oklahoma and the Indian Territory. It seems to us that the facts are all in. It seems to us that you have patiently listened to arguments. It seems to me that no one would be able to present arguments to change the judgment reached by the committee, and that it would be presumptuous on our part to interfere or want to change the opinion. All we ask is this—that you, as members of the American Congress, you as members of this committee, should take the initiative of introducing the bill. The argument is in. It looks to me like a case in which the evidence has been submitted and the judge has reached his opinion, and we should not interfere; and I think that if any interference is allowed at all it should be from those who are directly interested in this matter. It is like trying a law suit between A and B, and C seeks to intervene. He has no direct interest, and he has no right to intervene. I think that you should do those things for Oklahoma that you want to do for any free people.

On the subject of the amendment that is brought here by the friends of prohibition, personally I care nothing about it, but there are men in the Indian Territory who, while they might be in favor of the suppression of the liquor traffic, would resent any such enactment in an enabling act, because they are sovereign people. Every man who belongs to church would not be in favor of the prohibition clause, and every man who does not belong to church would not be opposed to it. They do not care anything about it. What they want is statehood. That is the proposition which we are interested in. Why, at the present time you can not build a road in the whole Territory except by private contribution—run your hand in your pocket and say how much you will give. I live in a town, and I give \$25 a year. How would you like to be there? Why, take the schools in the rural districts of the Indian Territory, and there are 100,000 children at the lowest estimate, and there is no way to educate them now except by the poor farmer and hard-working man saying, "I will pay \$3 a month to some teacher to come and teach my children." Such is the condition there. There are higher matters involved than this amendment, and that is the question of statehood.

With people who are now almost 1,750,000 strong, having the sufficient people, having the sufficient quality of population, having every qualification essential to good statehood, the question is, Shall they be longer kept out? That is the proposition. We want statehood. We are like the man who was thrown over into the great ocean and wanted water and who drank a little salt rather than to be without it.

Mr. DINWIDDIE. I ask that Mr. Sweet, who has been a resident of Indian Territory for some years and who represents the Indian Territory Church Federation for Prohibition Statehood, be now heard.

STATEMENT OF REV. E. M. SWEET, JR., SECRETARY INDIAN TERRITORY CHURCH FEDERATION FOR PROHIBITION STATEHOOD, MUSCOGEE, IND. T.

Mr. SWEET. There are two propositions primarily which I desire to present. I wish to show, first, just what was pledged on this subject, and then I desire to consider what will be the practical effect upon Indian Territory if you provide for the fulfillment of this pledge as we ask compared with the result if you do not.

We are not asking, Mr. Chairman, for anything but what has been deliberately promised by the Federal Government. Beyond a practical and effective fulfillment of these pledges we have nothing to urge. Now, without repeating what Mr. Dinwiddie has said relative to these pledges, I desire to quote from the agreements recently entered into between the Government and the Five Civilized Tribes. These were quoted by Senator Gallinger about a year ago. I read from a pamphlet copy of his discussion of the subject in the Senate on the 27th of last January.

The Dawes Commission, with which you are all familiar, was created by the National Congress and sent down to negotiate with the Indian tribes to ascertain upon what conditions they would be willing to surrender their tribal governments, permit their lands to be allotted, admit the white man to equal privileges of citizenship in

their country, and surrender themselves to a condition over which, in the nature of the case, they could not exercise control; in short, to become extinct. At that time it was clearly recognized that these tribes possessed rights which this Government, with all its great power, must consider and respect. Many difficulties were met with by the Dawes Commission, because these Indian people foresaw that very great danger to them and their posterity was impending. Many of them to this day have continued to protest against any sort of plans looking toward statehood at all; but finally, after months, and in some cases years of negotiation, a statement was reached setting forth on the one hand what the Indians surrendered and on the other hand those things which this Christian nation agreed to do in return.

The first agreement executed was what is known as the Atoka agreement, with the Choctaws and Chickasaws. Among other things it provided—and it was subsequently incorporated in the Curtis Act, was passed by the House and by the Senate, and then approved by the President, and became, through a more than ordinarily deliberate procedure, the law of the land—as follows (30 Stat., 509):

The United States agrees to maintain strict laws in the territory of the Choctaw and Chickasaw tribes against the introduction, sale, barter, or giving away of liquors and intoxicants of any kind or quality.

In the same act of Congress, the Curtis Act, which was approved June 28, 1898, was incorporated the agreement with the Creek tribe, containing the following language (30 Stat., 518):

The United States agrees to maintain strict laws in the territory of the said nation against the introduction, sale, barter, or giving away of liquors and intoxicants of any kind or quality.

And in the Seminole agreement, also ratified by Congress (30 Stat., 568), the same condition is given in language as follows:

The United States agrees to maintain strict laws in the Seminole country against the introduction, sale, barter, or giving away of intoxicants of any kind or quality.

Mr. POWERS. That applies to everybody; that is not limited to the Indians.

Mr. SWEET. "In the territory of the said nation" is the language of the agreement with the Muskogee, or Creek, tribe; "in the territory of the Choctaw and Chickasaw tribes" is the way the Atoka agreement reads, and in the Seminole agreement the words are, "in the Seminole country."

Mr. POWERS. That is general prohibition against selling to anybody. You live down there; do you know whether that is the way it is construed?

Mr. SWEET. Certainly. The treaties say nothing about laws against the sale of liquor to Indians, but promise to prohibit selling it to anyone in their territory. Even if a provision prohibiting the sale of liquor merely to Indians, as now proposed by the bill, could be made effective, still it would not fulfill the treaty stipulations. We recognized this last year, and we argued at that time as a practical proposition that the only way to prohibit the sale of liquor to Indians was to prohibit its sale in the Indians' country. This was the view taken by the Dawes Commission and doubtless by Congress in approving the agreements. And since the decision of the Supreme Court in the *Albert Heff* case, cited by my colleague, Mr. Dinwiddie,

it is now a clear proposition legally, as it has always been practically, the only way to keep liquor out of the Indian is to keep it out of the Indian's country.

Now, reverting to the agreements, in the case of the Cherokee tribe, while the latest agreement does not contain this provision so definitely stated as in the case of the other four tribes, yet the import and effect are practically the same, in that a section of a former treaty which contains the prohibition paragraph is specifically exempted from repeal.

Of course, if it were appropriate to go into the general merits of the prohibition question in this argument, we would call your attention to the fact that the sale of liquor to certain other classes of our people might be as detrimental as it would be to our Indian people; but the obligation of the Federal Government does not extend to these, except in this indirect way, that in prohibiting the sale of liquor in the Indian country, all who propose to live in that country will become the beneficiaries of the provision.

Mr. MCKINNEY. Was there a limitation as to the time in the treaty agreement?

Mr. SWEET. There was not, and therefore it was understood to be in perpetuity. That point was raised when I was before the Senate committee a year ago, a member of that committee suggesting a construction which would limit the operation of the provision in question to the present period of Federal control—when a State should be created the obligation would cease. Now, the logic of the situation, to my mind, is clearly this, that this promise on the part of the Government had reference to what would follow upon the discontinuance of the present form of government. If this provision were intended to operate only so long as the Federal Government should continue to exercise control in Indian Territory as it does at the present time, then the provision is utterly without any meaning or force whatever, for the reason that there is already a Federal statute providing prohibition so long as the Federal Government is in charge. It was evidently intended, therefore, to be operative after the discontinuance of the present Federal control.

But in order to be absolutely clear upon this point, when it was raised last year I communicated with a number of the Indians who served as commissioners from their respective tribes to meet and confer with the Dawes Commission. I inquired of them how this provision was understood by the Indian commissioners at the time they signed the agreements—what interpretation was then put upon it, whether it was understood to cease after March 4, 1906, or how long it was to continue in force. I wish to read to you a letter upon this subject which I received from Mr. N. B. Ainsworth, whom I knew in this city for several years before I went to Indian Territory, he having been for some time a representative of the Choctaw Nation here in Washington, and was one of the commissioners of that tribe who signed the Atoka agreement. His letter reads as follows:

SOUTH McALESTER, IND. T., *January 16, 1905.*

E. M. SWEET, Jr.,
Washington, D. C.

MY DEAR BROTHER: Replying to yours of January 5, 1905, I will say that it was my intention and desire when we made the Atoka agreement that the prohibition clause should remain in all succeeding legislation. You will notice

the word "territory" has a small "t," and hence means the lands of the Indians. Had the word commenced with a capital "T" it might have been construed to mean our "Indian Territory," as commonly used in treaties, bills, etc. At the time we made the treaty we expected to divide *all of our lands* (see first of the treaty), and had we adhered to this intention you can see that all our lands would still be the territory of the Choctaws and Chickasaws, though Congressional legislation might have blotted out the "Indian Territory."

In fact, we expected Congress to continue to "modify" our government until our lands or territory would become a part of a Territory or State. The Indian Commissioners knew this would finally come. I think Congress just as much bound to keep faith with us on this prohibition clause as on the clause to free certain lands from taxation and other privileges. The commissions who represented the Choctaws and Chickasaws would hardly have been persuaded into an agreement when we knew that our people were to be debauched at the end of March 4, 1906, by the open saloon. We knew then, as we know now, the weakness of our people for whisky, and we knew then, as we know now, that if whisky is free in this country when our tribal government ceases it would have been equal to our signing not only the disgrace, but an ignominious death warrant of many, many Indians.

I am clearly of the opinion that we would have perpetual prohibition in that form of government which should succeed our tribal government [and] was in the minds not only of the Indian Commissioners, but also of the United States Commissioners.

I appreciate what Congress is doing to keep the Indians out of the grip of the grafters, and I hope Senator Stewart's amendment will pass, but unless Congress keeps whisky out of this part of our country when it becomes a part of Oklahoma I do not think there is much hope for the average Indian, full blood or mixed.

I hope, therefore, you will succeed in getting prohibition for the Indians.

Your friend and brother,

N. B. AINSWORTH.

Governor Porter, chief of the Creek Nation, was in the city at that time, and I asked him to write me a statement of how he and his colleagues understood this provision. I wish to read you what he said in response:

NATIONAL HOTEL,

Washington, D. C., January 20, 1905.

Mr. E. M. SWEET, Jr.,
Washington, D. C.

DEAR SIR: In answer to your inquiry as to the meaning of section 43 of the agreement made between the Muskogee Indians and the Dawes Commission and afterwards ratified by Congress, and approved by the President March 1, 1901, according to the understanding of the Indian signers of such agreement at the time of signing, I desire to say that we understood that the United States Government obligated itself to continue the prohibition of the sale of intoxicating liquors, and we did not understand that this paragraph was to operate only until March 4, 1906, or that there was to be any limit to its operation. We would not have been willing to sign an agreement if we had understood that it would result in the open sale of liquor in our country.

Yours, truly,

P. PORTER,

Principal Chief Muskogee Nation.

And I want to say further that I have several times talked this matter over with Hon. A. S. McKennon, of South McAlester, Ind. T., who was a member of the Dawes Commission and signed these agreements in behalf of the United States. He informs me that this provision was discussed fully, especially in the case of the Atoka agreement (which was the first one negotiated), and that the commissioners representing the United States and those representing the Indian tribes both understood and intended that this prohibition should be perpetual.

This was the understanding by both parties to the agreements when they were signed; and, gentlemen, it seems to me that the only

way the Federal Government can dispose of this obligation is to fulfill it—do its utmost toward that end. As to Indian Territory, so far as there has been an opportunity to go on record on the subject, the preponderance of sentiment is in favor of the prohibition policy. It has been my lot within the last year to go more or less over the whole Territory, and I have talked with a great many people on this subject. One of our Muskogee bankers, for example, recently said to me that it was his opinion that 85 per cent of the people of Indian Territory were for prohibition.

Mr. LLOYD. Do you know anything about the sentiment in Oklahoma upon this subject?

Mr. SWEET. I am not so familiar with the sentiment in Oklahoma as is the Rev. J. J. Thomson, superintendent of the Oklahoma Anti-Saloon League, who is present and will speak to this point later.

Mr. LLOYD. I only intended to inquire whether you knew.

Mr. SWEET. I know that in some parts of Oklahoma there is a strong prohibition sentiment—much stronger than our friends the enemy are willing to admit.

Now, Mr. Chairman, I want to call attention to the fact that this question which we are discussing this afternoon has already gone through five distinct stages of deliberation on the part of the Federal Government, and at each stage was approved. First, by the Dawes Commission, as has already been stated. From there it went to the Secretary of the Interior, who gave the proposition his sanction and sent it to Congress. Then you gentlemen, first in the Curtis Act, deliberated upon this matter and said by your vote that it was right. I do not know whether every one of you did so, but a majority of the House—the bill was passed. It went then to the Senate and was likewise sanctioned by the vote of that body, thence to the President and was approved by him.

Now, after this promise of protection from the liquor traffic had been assumed these five successive times by duly empowered representatives of the United States, these Indians certainly were justified in the assurance that it would be kept in all good faith. I submit, gentlemen, that as the Government has thus deliberately obligated itself it is now entirely too late to raise the question of the propriety of the Government's doing so. The Indians know little about subtle questions of propriety as between Federal and State authorities. You gave them your word and they trusted it. If there was any question as to the right of the Federal Government to do this thing, certainly then was the time to raise it, not now. The Indians accepted the Government's promissory note; the time has now come for its payment; the question at issue is, Shall it be protested or redeemed? An honest nation's word is as good as its bonds. It is here that we rest our case.

Mr. WEBB. Would you want the twenty-one-year provision inserted?

Mr. SWEET. I thank you for bringing up that point; I had intended to touch upon it. In the other States which prohibit the sale of intoxicating liquors—Maine, Kansas, and in other States which have had prohibition—they prescribe in their constitutions that the sale of liquor is "forever" prohibited.

Mr. POWERS. "Sale and manufacture."

Mr. SWEET. Yes, sir; but I was only concerned for the moment with that word "forever."

Mr. LLOYD. If we should put the language of the treaty in the bill without any limitation, but simply say, "shall not be sold within that Territory," would not that morally bind the State forever?

Mr. SWEET. I should judge that that would be construed to bind the State until the State should see fit to change it. That would probably be the practical result of it.

Mr. LLOYD. I suppose, then, that the State could change it in five years if it desired?

Mr. SWEET. If no time limit were specified, probably it could; but if the State accepts statehood on the condition and agreement with the Federal Government to maintain prohibition laws for at least twenty-one years, or other definite period, it could not change its constitution within that period without a violation of its moral obligation.

Mr. LLOYD. And if "forever" was used, could they change it?

Mr. SWEET. Not without violating the moral obligation assumed by the State. And for that reason we have not insisted that the Government bind the State forever. We have not seen fit to ask that it be so fixed that there never can come a time when the State may change the prohibition policy, if it should have reason to do so, without violating its compact with the Federal Government. So we sought to hit upon some period of time for which there was a precedent. The Indian's homestead is made inalienable for twenty-one years. And the Indian will need protection from the liquor traffic just as much and just as long as he will need to be prohibited from selling his homestead.

The CHAIRMAN. The Seminole homestead is inalienable in perpetuity.

Mr. SWEET. Yes, sir. There is not entire uniformity at this point as regards the several tribes. But as we did not think best to ask that the Federal Government bind the State morally to perpetual prohibition, the period of inalienability of the homesteads of the other tribes was thought to be the next best precedent.

Mr. LLOYD. Do you not think that Congress has the power to put in this enabling act a provision that there shall be perpetual prohibition?

Mr. SWEET. Yes, sir; undoubtedly; but we are not asking that the Federal Government be responsible for prohibition. After statehood is granted the responsibility will really rest with the State forever. Certainly the prohibition ought to be perpetual. The Indians have a right to expect it. To be entirely frank, gentlemen, we purpose to make it perpetual. If you will help us to get started off right, within twenty-one years—indeed, in less time than that—we shall expect to have developed a sentiment among our people which will demand the retention of the prohibition policy forever.

Mr. KLEPPER. Have the Indians sent representatives here to look after their interests from the standpoint of prohibition?

Mr. SWEET. Yes; there are a number of gentlemen here who are Indians and who desire to be heard upon this question.

Mr. DINWIDDIE. May I suggest that Arizona, New Mexico, and

Oklahoma are represented in Congress by Delegates, but the unfortunate situation is that the Indian Territory has no Delegate, and she has not been able to get her case before Congress except in this way.

Mr. KLEPPER. I do not understand that you represent the Indian tribes. Are the Indians represented?

Mr. SWEET. Certainly they are. I am speaking as the secretary of the Indian Territory Church Federation for Prohibition Statehood. Our federation has a board of directors, and upon this board are a number of Indians; for example, Governor Brown, of the Seminole Nation. We have three vice-presidents, all of whom are prominent Indians. Yes; the Indians are represented by our federation as well as the whites.

Mr. Chairman, I now desire to discuss the second proposition which I was to touch upon, namely, the practical good which will result to the Indian Territory from the adoption of the proposed amendment. Why are we asking Congress to require the prohibition of the liquor traffic as a condition precedent to statehood? What practical good would accrue? Why are we unwilling to leave it to be settled by the people of the new State afterwards?

Our opponents have set up the argument in the newspaper campaign which they have waged against us since they reached the city, that it could do no practical good for Congress to put the prohibition requirement in the enabling act; that prohibition can not be effective unless a majority of the people of the State are in favor of it so as to enforce the law, whereas if there is such a majority in favor of prohibition they will provide the law for themselves without any aid from Congress. Now, I think I can show you in a moment the fallacy of that argument. It fails for a practical reason. There would, indeed, be some force in the argument if our population were to remain the same after statehood as it is now, but it will not be so. The chief practical value of the action which we seek at your hands will lie in the effect which it will have in largely determining the character of our immigration. And the Indian's future depends chiefly upon what kind of white neighbors he gets.

I do not know how closely the gentlemen of this committee have observed the rapid growth of prohibition sentiment in this country within recent years, especially, I may say, in the South and West. My native State of Texas, for example, has, mostly within the last ten years, driven the saloon from about three-fourths of her area. Out of seventy-some-odd counties in Arkansas, upward of forty-five are entirely under prohibition, besides a number partly so. Tennessee has evicted the saloon from all but about a dozen towns. And in Kentucky, Georgia, Mississippi, Alabama, North Carolina, Indiana, Missouri, Iowa—may I mention Ohio?—and many other States which I might name this same propaganda against the liquor traffic has been waged with progressive success in the last few years.

The CHAIRMAN. That shows that the morality of humanity is on the upgrade.

Mr. SWEET. Exactly so; and while that is a gratifying fact—

The CHAIRMAN. Well, you would not except Oklahoma from the probability that it would be in line with the upgrade movement, would you?

Mr. SWEET. By no means; but we do make our earnest protest

against being made the dumping ground for the riffraff and moral garbage which these States cast out in their house cleaning. The rapid moral advancement of these States only intensifies our peril. Every county that votes the saloon out of its borders puts scores or hundreds of saloon keepers out of employment. And with them also go the gamblers and other associate criminal classes. What do they do? Why, of course, they immediately begin to look about for some other place to go into business. They are turning eagerly toward Indian Territory. They have heard that the Indians there have plenty of money and don't know what to do with it. Mr. Chairman, the information has come to me from two different sources that there are to-day 3,000 sets of saloon fixtures stored on the borders of Texas and Arkansas waiting to be shipped into Indian Territory as soon as they can get a foothold. And many of them are not waiting on the border, either. In my own town of Muskogee there are two buildings that I know of which have been erected within a little more than a year past expressly for saloon purposes. Also in several other towns I know of similar facts—saloon keepers that have been voted out of Texas, Arkansas, and other States coming to Indian Territory, buying corner lots, building storehouses thereon, and "waiting till statehood comes."

The CHAIRMAN. But still they could not do business there any better than they could in Texas or Tennessee if the public sentiment was opposed to that business, could they?

Mr. SWEET. Certainly not, if you will leave our public sentiment armed with the law, so that it can express itself effectively. But if you take away our present prohibition law, as will be done with the expiration of Federal authority, and do not give us another in its stead, we will be at the mercy of these criminal classes for a long and riotous period of time. If you give us statehood without prohibition, they will open up their business everywhere the first day. Then when it comes to calling an election to vote them out you can depend upon it that they will have their fingers in the election. Behind them stand the brewers and distillers, with limitless slush funds to corrupt the ballot and secure a larger and profitable market. They will have a hand in the election, according to methods which we can not use. Consider, too, the mixed classes of population which we have, many of whom would then be casting their first ballot. Now, gentlemen, I submit that in the name of common fairness it is not fair to the Indian citizen, now that after the expenditure of millions of money by the Christian churches of this land and thousands of lives and generations of patient labor he is at last brought to that degree of development where we call him "civilized" and give him the ballot—it is not fair to force him to cast his first ballot under conditions where there is such a large premium on corruption.

Certainly it is the desire of Congress and of this committee in establishing this new State government to give the advantage to the right. We ask that you will at least enable us to start off our State with as much of power as possible in the hands of men who desire clean government instead of in the hands of those who are unscrupulous. Of course it is not necessary for me to say that the gentlemen who differ with me upon this question here are not to be reckoned in that class by any means. But perhaps some of them have not taken

into consideration certain vast commercial interests which are vitally concerned in defeating this proposition.

Indeed, Mr. Chairman, there is much more than a merely moral question involved in this controversy. Many of our leading business and professional men agree that there is no question now confronting us in connection with statehood which will so greatly affect the commercial and industrial interests of our future State. If you give us statehood without prohibition and we receive such a vast immigration of criminal classes, the immediate result will necessarily be a large increase in crime. The newspapers will report these things to the world. That is their business. And we are thinking about the hundreds and thousands of families that are to-day around their firesides in your States debating whether they will move to Indian Territory. If we begin the State with the prohibition policy, they will know that it will be a good place to build homes and rear their children. If, on the other hand, they take up their newspapers and read about the reign of murder and riot which will ensue if the saloon comes among us with statehood, they will conclude to stay away, and we will lose the best class of immigration, which would otherwise be attracted to our country. Mr. Chairman, we have a fine country, and we want it to be inviting to the best people that can be induced to leave the older States. This prohibition question with us is a great commercial and industrial proposition.

Mr. Chairman, I would have it understood that the work of our church federation for prohibition statehood is not limited to church members. At the convention at South McAlester September 27-28, 1904, where our federation was organized, there were some of our most prominent citizens who are not members of any church. On our board of directors is one of our leading lawyers, who is not a member of any church, though earnestly in favor of prohibition. Indeed, the larger contributions toward our expense fund have come from the business men of Indian Territory who are interested in prohibition as a business matter. Aside from the effect upon the kind of immigration which we will get, these business men reason this way:

According to the report of the Commissioner of Internal Revenue just issued, there were 1,136 persons in the Territory of Oklahoma who paid during the fiscal year ended June 30, 1905, the special tax required of retail liquor-dealers by the Internal Revenue Department. At the low average of \$20 daily sales for these 1,136 liquor dealers, the people of Oklahoma waste (worse than waste) \$22,720 a day for intoxicating liquors, or \$8,292,800 a year. If Indian Territory be opened to the liquor traffic, not less than \$7,000,000 will go into liquor the first year, or \$15,000,000 for the entire new State, the larger part of which will otherwise be spent for clothing and shoes and groceries and hardware and real estate and lumber and other like commodities.

A real estate man was in my office several weeks since who came to our Territory not long ago from Missouri. He told me that Indian Territory had done for him in a few short weeks what his mother had failed to do in about thirty-five years—made a prohibitionist out of him. He was relating also that the merchants of Missouri had begun to feel the good effect of Sunday closing in a brisker business toward the first part of the week. I have seen the statement

in two St. Louis papers, credited to John H. Howard, former president of the St. Louis Liquor Dealers' Benevolent Association, and concurred in by Senator Kenney, also a saloon keeper, namely, that Sunday closing has effected a loss to the liquor trade—that is, a saving to the family purse—equal to 24 cents per capita of the city's population. This amounts to \$146,580 for every Sunday that the law is enforced, or \$7,622,160 per annum in the city of St. Louis alone, nearly three times as much as the annual appropriations of the Missouri legislature for all purposes. Verily the governor of Missouri is not an unprofitable servant of the people.

Since these hearings began, Mr. Chairman, I have heard several expressions tending to reflect upon the State of Kansas and her so-called noneffective prohibition. In that connection I believe that you will be interested in the following figures clipped from a recent number of the Advance:

THE EFFECT OF PROHIBITION IN KANSAS.

Kansas has been under constitutional prohibition for twenty-one years, a period long enough, it would seem, to give a law a fair test. As to what the test shows, statistics recently published are illuminating. In 5 of the 105 counties of Kansas the prohibitory law is generally ignored. The 5 counties have 17 per cent of the population and furnish over 30 per cent of the crime. The population in the twenty-one years has increased from 996,616 to 1,470,945, while the number of prisoners has decreased from 917 to 788. That prohibition is generally but not efficiently enforced appears in the fact that the United States still collects a liquor tax from Kansas of only \$7,700 for each 100,000 inhabitants, while in Nebraska, not a prohibition State, it collects \$252,000. In the last ten years Kansas has gained 3 cities of over 10,000 inhabitants, while Nebraska has lost 3.

Mr. Chairman, the grafters of Indian Territory are opposed to prohibition to a man. The saloon would be their great ally. But the better class of our business men, for the most part, are for prohibition. They know that the liquor traffic as an economic factor is very wasteful of a country's resources, and is coming under the ban all over our land. In 1889 the American Railways Association appointed a committee of experts to investigate into the causes of railroad wrecks which had occurred during the five years preceding. The report shows that 40 per cent of these wrecks were caused directly by liquor drinking, while in an additional 15 per cent liquor was strongly suspected but not positively proven to be the cause. What did these railroads do when they found this out? To them it was simply a cold-blooded business proposition. I will read you what they did.

On the 2d day of last January, as I was on my way to Washington, we were side-tracked several hours at Rocheport, Mo., waiting for the débris of a wreck to be cleared away several miles ahead. In conversation with an engineer on this subject at that time he permitted me to read one short paragraph from a book of rules and instructions which he drew out of his hip pocket. He let me write it down, and here it is:

The use of intoxicants by employees is prohibited. The frequenting of places where they are sold is sufficient cause for dismissal.

The employees of several of these railroad companies are required to sign a total-abstinence pledge even in their application for employment, whereas practically all the men employed in operating the

railroads of this continent are to-day working under the rule which I have just quoted. The result is that instead of the proverbially rough class which railroad men were known to be fifteen years ago they are now a set of as uniformly courteous gentlemen as we can find anywhere, and, what is more, statistics show that a man is safer to-day riding on one of our best-equipped railroad trains than when driving behind the family buggy horse.

The marine underwriters of New York express their judgment of the increased business risk which liquor drinking entails by writing insurance policies on cargoes shipped on vessels where no liquor is allowed to be drunk for 5 per cent less premium than on other vessels.

Mr. Chairman, many of our most successful business men of Indian Territory have too much horse sense to suppose that the saloon helps business. On the other hand, as I have said, they are willing to invest some money in an effort to keep the saloon out of our land. As instances of this, the three members of the Wewoka Trading Company, one white man and two full-blood Seminole Indians, contributed \$350 to our work for prohibition statehood; the president of the First National Bank, Wetumka, \$100; the cashier of the Bank of Commerce, Wetumka, \$50; three of the banks of my own town, Muscogee, contributed \$50 each and charged it to expense, besides several other like amounts from business firms and property owners, not to mention a number of other lesser amounts. More than a year ago Mr. Syllsby, of Chicago, invested \$60,000 in Muscogee property. He stated to Mr. W. E. Rowsey, one of our bankers, who negotiated the deal, "One thing I like about your city, you have built it up without any supposed help from the saloon business." Mr. Hamlin Garland, the noted author, has acquired some property in Muscogee and has also bought a ranch in the Creek Nation. Learning that Mr. Garland was much interested in our movement for prohibition statehood, I called on him when he was there some time ago and talked with him on the subject. He remarked that he perhaps looked at the matter from a different point of view from mine. To him, he said, it was simply a business proposition. Continuing, he remarked: "My wife and daughter can go about your streets with perfect safety. But it would not be so if you had saloons here. Nor would I feel disposed to recommend it to my friends whom I meet elsewhere in the States." Mr. L. M. Poe, one of the leading attorneys of Tulsa, in handing me his check, said:

I never parted with \$25 with more genuine pleasure in my life. This is a good country to live in, and I do not want to have to move out.

Mr. Chairman, I have been reciting these personal instances to show you how our business men feel upon this subject. Whether we shall have continued prohibition in Indian Territory is the greatest moral, political, and industrial question which we are confronting.

Mr. LLOYD. Do you know whether these delegates that are here from Indian Territory represent the various commercial bodies in the Indian Territory, and whether they have instructions as to whether they shall insist upon the prohibition amendment or not?

Mr. SWEET. Would the gentleman permit me to answer his question by asking another gentleman to answer it?

Mr. LLOYD. Never mind, if you do not know.

Mr. SWEET. Yes, sir; I can answer, at least so far as the thousand-

delegate statehood convention which met at Oklahoma City last July was concerned. I was at that convention. These gentlemen who are here opposing the prohibition provision are not acting in keeping with the instructions of that convention. The resolutions adopted by that convention of a thousand delegates, half from Oklahoma and half from Indian Territory, did not utter one word against the Gallinger-Stone twenty-one-year prohibition amendment which had been so recently added to the statehood bill by the Senate; but, on the contrary, contained the following language:

We have but one petition and one request to make of the American Congress, and that is that immediate joint statehood be granted to Oklahoma and Indian Territories on their own merits, and without any reference to any right or claim of other Territories seeking admission to the American Union.

Now, if I have been in any way unfair in this statement concerning the Oklahoma City convention, I ask that Mr. Jones or some one else will set me right.

STATEMENT OF MR. C. G. JONES.

Mr. JONES. I do not want to impugn the motives of any gentleman, and I am sorry that the gentleman made the remark that he did, that we who are here opposing his idea upon this proposition are not in favor of clean government, that we are enemies of clean government, and so on.

Mr. SWEET. I cleared myself of any such construction on my language as that at the time.

Mr. JONES. That was the remark you made. For myself I never tasted a drop of beer or whisky or took a chew of tobacco or smoked, and I do not know one card from another. I have traveled from Maine to California and from the British territory to the Gulf of Mexico, and I have worked my way. I am as much in favor of good, true American Government as any man.

The CHAIRMAN. We are satisfied as to that.

Mr. CAPRON. How in the world have you kept out of Congress?

Mr. JONES. We have not had statehood. I have got a little boy and I am trying to be father and mother both to him, unfortunately, and I want to say that I am for prohibition, but I do not want it in advance of public sentiment and against the wishes of the people of Oklahoma and the Indian Territory. When this question comes up after it is voted on by a majority of the citizens of Oklahoma, if by the stroke of my pen in any way I can make prohibition, C. G. Jones's name will be signed there. We want statehood. Then we will take care of this matter and other local matters. If we are entitled to statehood, give it to us and let us have our own police protection and regulations. We will enforce the laws that we make, but do not try to make us enforce laws that somebody else makes in advance. We are simply here as true, tried American citizens asking for statehood, and if you give us the opportunity to make prohibition or anything else we will do our duty as American citizens.

As I said at the outset, I have no objection and am perfectly willing to submit this matter to the committee and let you pass upon it, and whatever you do we will say "Amen." I want to say to the members of this committee there are thousands of mothers and

fathers who are praying for you to give them this relief in order that they may educate their children and make them good Christians, and I shall not put anything in the way of the prohibition provision, but give us the right as American citizens to control this matter through our police regulations.

I wish to introduce to you one of the ex-supreme court judges of the Territory, Mr. A. G. C. Bierer.

Mr. SWEET. Mr. Chairman, if I may by your courtesy be thought still entitled to the floor, inasmuch as I yielded to the gentleman for the purpose of his answering a question, though I did not wish to interrupt him until—

Mr. JONES. Oh, I beg the gentleman's pardon. I thought he had gotten through.

The CHAIRMAN. Yes; we will recognize you, Mr. Sweet.

Mr. SWEET. I have only a word to add, Mr. Chairman. I only wanted to say that my friend has gone a long way around in order to put any such construction upon my language, especially so since I distinctly stated that I did not refer to any of the gentlemen here who differ with me, but to certain commercial enterprises which look with such large financial interest to the defeat of this proposition. I made that very clear at the time.

As to statehood, I desire to say that we who are advocating the prohibition amendment are no less eager for statehood than are those who are opposing prohibition. But we are proceeding on the assumption that we can get statehood with this question settled rightly just as easily and just as soon as otherwise. In view of the fact that the Senate is already on record for this amendment by a majority of more than three to one, I am clearly of the opinion that the bill can be passed with this amendment sooner than without it.

STATEMENT OF MR. A. G. C. BIERER.

Mr. BIERER. I just happened to be here. I was fortunate enough to live in the great State of Kansas for a period of ten years under both constitutional and statutory prohibition. There was an abundance of liquor there. I have been fortunate enough to live in the great Territory of Oklahoma for almost fifteen years, with no constitutional provision, but with statutory license. There has been an abundance of temperance there. These gentlemen on this side of this question are fairly representative of our Oklahoma citizenship, and, gentlemen, they will continue after you pass this enabling act, whether it be prohibition or not, to be fair representatives of the citizenship of the great State of Oklahoma. The vital question and the important one is to give us statehood for Oklahoma and the Indian Territory, and we will take it under such terms and such limitations as you gentlemen suggest.

So far as the question suggested here as to the legal status of this case, which is, as I understand, a construction of the amendment to section 1639 of the Revised Statutes made by Congress on January 30, 1897, that section has been in force, I believe, ever since 1830, just about three-quarters of a century, and that section prohibited the sale of liquor to Indians and prohibited the introduction of liquor into the Indian country. Whenever any country ceases to be Indian country then the operation of that section ceases. That section also

in so far as it prohibits barter and sale of liquor under the charge of an Indian agent ceases when the Indian becomes a citizen of the United States. Then this matter of the sale of liquor becomes a police regulation, and then Congress would not have the right to interfere with that police regulation.

It has been urged that now it is necessary to place some restriction in this bill in order that the Indian may be protected in accordance with the spirit of these treaties—I say spirit, because the treaty is dead when the country passes out of the jurisdiction of the treaty. These treaties, as I understand, make regulations against the introduction of liquor in the Indian Territory or the Indian country.

Now, whenever the Congress of the United States shall in its wisdom say, you are no longer an Indian country, but you have become a State of the Union, then the operation of that statute must of necessity cease, because there is no longer any Indian Territory or any Indian country. These gentlemen are sincere in pressing this matter upon Congress. They are good citizens. There are just as good citizens on that side as there are on the other, and just as good on the other as there are on that side.

Mr. McGUIRE. If you will allow an interruption with regard to the construction of these treaties, is it your contention that the Government ought not to be permitted to prevent the importation and sale of spirituous liquors in the Indian country longer than the date at which it will obtain statehood?

Mr. BIERER. Probably not longer than the time when these reservations cease.

Mr. McGUIRE. That is your construction of this treaty?

Mr. BIERER. Yes, sir; that is my construction of the statutes and of this treaty. It was not intended by the American Congress that those countries should remain Indian reservations forever. It was always understood that some day that country, like every other foot of American soil, at least on this continent—I don't know about the other [laughter]—would become a sovereign State of the American Union.

Mr. McGUIRE. Your contention is that the countries ought not to be committed further to that which they would not have a constitutional and lawful right to do?

Mr. BIERER. I am willing that the Government should retain constitutional control over the subject of the barter and sale of liquor for all time to come. That would protect the Indians. I do not think it is necessary or advisable to invade local conditions any further than is necessary to do that. I think that Congress, in passing this enabling act, ought to grant us the power to become a State; but distinctive local conditions that have long existed should be interfered with just as little as possible.

The men in the Indian Territory would say, "We have had prohibition for all time to come." You can not very well continue prohibition there, as a matter of law, unless you place prohibition upon that part of this domain that has not heretofore had prohibition. Therefore, when it comes to a question of territory, of domain, when you pass an act enabling us to become a State, and after the reservations have ceased, then you must make conditions that will invade one or other portion of that domain. But the pressure now brought to bear upon Congress, this additional pressure, is that the Indian

should be protected. I think he should. I think it is right that he should. I have lived near there. I have had the honor to preside over a court where we had the Indians and whites alike brought up for the violation of those statutes. Mr. McGuire is acquainted with them, because he lived near there. I know the tendency of the Indian is when he can get liquor to get it.

Mr. DINWIDDIE. The court says you can not do it that way.

Mr. LLOYD. Do I understand you to convey the idea that the matter should be so regulated that if intoxicants are sold in violation of the law to the white man you would punish him under State law and if intoxicants are sold to the Indian you would punish him under the Federal law?

Mr. BIERER. Yes; just as we do now. We now punish him under the Federal law for taking liquor into the Indian country and selling it to the Indian.

Mr. WEBB. Your idea is that we can still control by Federal statutes the Indian because he is our ward?

Mr. BIERER. Yes, sir.

Mr. WEBB. Now, when you make him a part of a sovereign State and allow him to vote, don't you destroy that relation? That would make it unconstitutional to retain such a law.

Mr. BIERER. What constitutional provision would it violate?

Mr. WEBB. The fourteenth amendment to the Federal Constitution.

Mr. BIERER. In this instance I propose that the State should grant it.

Mr. WEBB. Would not the Indian ward say, "I am not going by your constitution, but by the Federal Constitution, the fourteenth amendment?"

Mr. BIERER. The power was never granted in the constitution of the State of Kansas to take that from the Indian.

Mr. MCGUIRE. Your contention is that if the State should grant one it should grant the other?

Mr. POWERS. I think there are certain rights that a citizen has which the State can not grant away from him.

Mr. DINWIDDIE. I was going to ask a question—

Mr. WEBB. I want to get you right about that, Judge. I want to ask if this is your decision on this matter?

Mr. BIERER. That perfect toleration of religious sentiment should be secured, and that no inhabitants of the State should be molested in person or property on account of his or her mode of religious worship; that polygamous or plural marriages and the sale of intoxicants to Indians should be denied.

It should be supplemented by a grant of power to the Federal Government to enforce that prohibition. I think that power can be granted, and can be enforced by the Federal Government if granted by the State. But it must be granted by the State to the Federal Government, and the State should be required to adopt that enabling act in its constitution, so that the power would irrevocably remain in the Federal Government. Then it should be passed upon by the Supreme Court of the United States, the highest court on earth. But I think there will be less infringement on the rights of the people of Oklahoma through that provision and less danger of harm therefrom than by taking any other theory. As I suggested

before, if you make any general provision for or against prohibition, you would change a provision that has already existed in one or other of those Territories. In Oklahoma we have had a license system ever since the passage of the organic act of May 2, 1890. Our local government has grown up under that theory. Our cities have been established there under it—under our license system.

We have cities there which, if you gentlemen would come and look at them, you would say, if you did not remember the actual year, must have been in existence a great deal longer than they really have been. Those cities have contracted indebtedness, they have issued bonds, they are maintaining city governments, and they are maintaining them of an advanced order. A good deal of the expense is paid by the license system. If you come down in a moment and cut that off all at once and change that in the twinkling of an eye to another system that will take years to establish, I think, gentlemen, it would be taking a step and would be making conditions there that may result in serious embarrassment. The other plan I do not believe will create any embarrassment.

Mr. DINWIDDIE. I will ask a question, judge, not to interrupt you. You don't mean to indicate to the committee that that condition exists in the Indian Territory?

Mr. BIERER. No; no man can go into the Indian Territory and sell a drop of liquor. If he steps over the line he has violated the amendment—the fourteenth amendment.

Mr. POWERS. Is it sold there?

Mr. BIERER. Not legally.

A BYSTANDER. Extracts of Peruna, etc., are sold.

Mr. BIERER. They must have so little liquor in them that they are not regarded as liquor in themselves.

Mr. LLOYD. What do you say to the proposition of leaving the regulation of the liquor traffic to your own people? Are we safe in doing that? Can the United States Government feel safe in doing that?

Mr. BIERER. That brings up the question asked by others, as to whether the people there are in favor of prohibition or against it. Those people assert that there is a strong prohibition feeling in both Territories. There is quite a strong prohibition sentiment in Oklahoma Territory. My friend C. G. Jones comes and says he is in favor of prohibition. [Laughter.] There are lots of them just that same way, men who are public-spirited, progressive, and advancing. I don't say that the other people are not equally so, but there are lots of people there who drink some liquor who are still in favor of prohibition.

Mr. LLOYD. I want to know whether you answer affirmatively the proposition that he submits, that it would be safe so far as the Government is concerned to leave the whole adjustment of the matter to your people?

Mr. BIERER. I believe it will. At the same time, I am in favor of prohibiting that sale to the Indians so long as those fellows—the Indians—remain as men of distinctive Indian blood or largely of Indian blood. I believe their disposition and habits and passions are such that they need this protection.

Mr. LLOYD. What do you say an Indian is? What do you say?

Mr. BIERER. I do not believe you can go that far. [Laughter.]

Mr. POWERS. I have Indian blood in me. Do you suppose I could get a drink down in Oklahoma? [Laughter.]

Mr. BIERER. I don't know. Many citizens have Indian blood in them, but they have had it so far back that they are now quite distinctive Caucasians.

Mr. LLOYD. How much blood do you call Indian?

Mr. BIERER. I think a man is an Indian unless he is three-fourths white. Some of those half-breeds have the distinctive Indian features and marks and characteristics. There are many half-breeds down there who are very far advanced in citizenship, and among them are some of our best citizens. People of that intelligent class would not need this act at all. Lots of Osage and other advanced tribes do not need that protection. But I understand you would put that limitation in for the protection of the many.

Mr. LLOYD. Do you say one-fourth?

Mr. BIERER. I say one who is not at least three-fourths of white blood.

Mr. McGUIRE. What do you say as to the legal effects of a prohibition of this kind, that "nothing contained in the said constitution shall be construed to limit or affect the authority of the Government of the United States to regulate the sale of spirituous, malt, and other intoxicating liquors to Indians," in case such a provision should be adopted by the people of Oklahoma?

Mr. BIERER. I think that is broad enough, and it would give to the Federal Government the power to regulate it as it chose. I believe that is sufficient. That gives the jurisdiction to Congress to still control that, so far as the Indian is concerned.

Mr. CAPRON. You would still limit it to twenty-one years?

Mr. BIERER. I think in twenty-one years the Indian there will become so distinctive an American that he won't need that protection longer.

Mr. CAPRON. I don't know how the State would feel as to being hampered by some police regulation in it by having a time limit.

Mr. BIERER. The people of Oklahoma and of Indian Territory will adopt by a 95 per cent vote any constitution that you give them the opportunity to make. That vote, that sentiment, is just so strong that they will adopt any one you wish to make. [Laughter.]

Mr. CAPRON. This gives us a very broad invitation, you know. [Laughter.]

Mr. BIERER. Yes; I think the bill, as it goes to Congress, as passed by this committee, or reported by this committee, is very apt to be, or very nearly in its essential details, the bill that will be passed upon.

Mr. CAPRON. I believe you appreciate this committee.

Mr. BIERER. Yes.

Mr. DINWIDDIE. Can I ask a specific question?

The CHAIRMAN. Yes.

Mr. DINWIDDIE. The Judge is absolutely right, in my opinion, about his statement that the Federal law, which is now existent, can not, after the Heff decision, operate to stop the sale of liquor to Indians when they have become citizens and have received their allotments of land. There is no doubt about that. The Judge says the reason for it is that the State has not given its consent to the Federal Government.

Mr. BIERER. The Federal statute has not gone directly to that point.

Mr. DINWIDDIE. Up to that point there is no difference of opinion as to the constitutional question decided in this Heff case, in 197 U. S., page 488. But the Judge says that is going to be overcome when the State, in its constitution, confers upon the Federal Government authority to exercise jurisdiction with reference to the sale of liquor to Indians; and I maintain that the moment the State does that, or attempts to do it rather, and the Federal Government attempts to come in there and operate on the State by its legislative or constitutional provision, and comes in there and attempts to discriminate against the Indian in the sale of liquor, and differentiate him from the other body of citizens, just that moment you fall within the fourteenth amendment to the Federal Constitution.

Mr. BIERER. Congress is only passing upon that act.

Mr. POWERS. Mr. Chairman, when shall we meet again?

Mr. CLARENCE DAVIS, of Bristow, Ind. T. Mr. Chairman, there has been but one gentleman here who has spoken for Indian Territory, and the whole controversy before this committee seems to be with reference to the Indian Territory. I am from the Indian Territory myself, and I expect that I have seen more years of prohibition, possibly, for my age, than anyone in this house. I lived twenty-four years in Kansas and three years in Indian Territory, making twenty-seven years.

Now, there has been much argument offered by the gentlemen from the other side. I want to say at the outset that I am not a prohibitionist. I do not belong to that side of the wing; neither do I belong to the other side of the wing. I want to answer, in the first place, the gentleman's first proposition, and that is the keeping of faith by this Government with the Indian. Let us look into that just for a moment—

Mr. LLOYD. May I interrupt the gentleman just a moment, Mr. Chairman? We were just discussing an adjournment.

Mr. POWERS. We might meet at half past 10, Friday.

Mr. JONES. Mr. Chairman, I want to thank you for your indulgence. We are later than usual now, but how long do you expect to continue this hearing? Have you any idea? Understand me, we are willing to quit now.

The CHAIRMAN. I don't know how the majority of the committee feel. We ought to have some expression of our views, perhaps, among ourselves. We want to give everybody a fair chance. The only question, gentlemen, is, When shall we meet? Shall it be to-morrow?

Mr. LOYD. I move that when we adjourn we shall adjourn to meet on Friday morning at half past 10.

The CHAIRMAN. I will put that motion. Gentlemen, you have heard it. Are you ready for the question? As many as are in favor say "aye." The ayes have it. Adjourned until half past 10 o'clock Friday morning.

Thereupon, at 5.20 o'clock p. m., the committee adjourned until 10.30 o'clock Friday morning, December 15.

COMMITTEE ON THE TERRITORIES,
Friday, December 15, 1905.

The committee this day met, Hon. Edward L. Hamilton in the chair.

The CHAIRMAN. Who is the first gentleman to be heard this morning?

Mr. JONES. I would like to ask how long the hearings are likely to continue?

The CHAIRMAN. Gentlemen of the committee, what have you to say about that?

Mr. LLOYD. Let us proceed until 12 o'clock without any decision.

Mr. JONES. I wish to introduce to the committee Mr. Clarence Davis, of Bristow, Ind. T.

STATEMENT OF MR. CLARENCE DAVIS, BRISTOW, IND. T.

Mr. DAVIS. Mr. Chairman and gentlemen of the Committee on the Territories, as Mr. Jones said to you day before yesterday, we of the Oklahoma and the Indian Territory delegation were perfectly willing to submit the question as to whether there should be any provision in the enabling act with reference to intoxicating liquors to this committee for its decision without any argument being made either pro or con, but on the contrary, day before yesterday the gentlemen here representing those who are advocates of the intoxicating-liquor provision to be inserted in the enabling act brought this question before your committee.

Mr. LLOYD. Allow me to interrupt you right there. What is your business?

Mr. DAVIS. I am a lawyer.

Mr. LLOYD. How long have you been in the Indian Territory?

Mr. DAVIS. Not quite three years; and in that connection I will say that I have lived for twenty-four years in Kansas, the full lifetime of the prohibitory liquor law in Kansas, with a constitutional provision that "the manufacture, sale, or barter of all intoxicating liquors is forever prohibited, except for medicinal, mechanical, and scientific purposes," and the last three years I have lived in the Indian Territory, where the most stringent prohibition liquor law on the face of the earth is now in force. While in Kansas I also served as prosecuting attorney, and it was my duty under my official oath to undertake the enforcement of that law.

Now, gentlemen of the committee, taking up the matter that the gentlemen have offered in behalf or in support of their contention, the first proposition they put forth to you is to keep the faith of the National Government toward the Indians in the Indian Territory. Their proposition is this: That you have by solemn treaty said for all time that you would prevent the manufacture and prohibit the sale and barter of intoxicating liquors in that Territory.

Now, gentlemen of the committee, I wish to say to you this: That every act of Congress and every treaty obligation of the Congress with any Indian nation is made at that time in view and under the consideration and subject to the Federal Constitution of this Union, and all parties to that obligation, the tribal governments likewise; it is made with full knowledge of that obligation. If the Indian

nation may be said to be possibly an unlettered nation and possibly unacquainted with the full extent of this provision of the Constitution, it can not excuse them. Perhaps it may be that we may extend them sympathy, but yet at the same time that obligation is made. But a short time ago—four or five years—the National Congress did introduce a new policy with reference to the Indian nation, especially in the Indian Territory, and that policy was to destroy the relation of guardianship to the ward, the Indian, and was to make them citizens of the United States and later to become citizens of one great State which will be the new State of Oklahoma. I shall not undertake to say at this time whether that policy is wise or unwise. It has been adopted, and at the time when the National Congress passed that act which laid out the policy of this nation—

Mr. LLOYD. The Curtis Act?

Mr. DAVIS. In general, that is the Curtis Act. To make them citizens of the United States they did and of necessity will make them citizens of the State to be. Now, that policy was adopted. At this time it is impossible, you can not turn back.

Now, again, about keeping the national honor, I wish to say to you that when the treaty obligation was entered into and later by agreement the tribal relations were dissolved and this policy introduced, I wish to say to you gentlemen, members of this committee sitting here, and it applies to the members of the House and the Senate and to the President of the United States, that you, each one of you, when you entered upon your office held up your hand and said, "I do solemnly swear that I will support the Constitution of the United States," among other things.

Now, gentlemen, it has come to this pass: We are asking for statehood, and you will all admit, and I believe the gentlemen who are arguing the affirmative of this proposition will admit, that from no constitutional point of view—I care not how you present it—any scheme, shift, or device that you propose to put into this bill can be made constitutional. I think that is conceded, if I understand the gentlemen aright.

Mr. DINWIDDIE. Not by any means.

Mr. DAVIS. Then I do not understand the gentleman's position.

Mr. DINWIDDIE. I will try to make it clear before we get through.

Mr. DAVIS. Gentlemen, if it is written in the constitution of the State by our people, regularly assembled, it will then be constitutional. You say in the bill that you bring us in with equal rights between ourselves and between the other States. Now, in order to do that, in order to pass a bill here, gentlemen, you who have taken a solemn oath to support the Constitution of the United States—and I speak now of keeping the faith—you are bound to keep the faith of that oath and not present anything in any form unconstitutional in this bill, if you know it to be so, and I ask you to keep that kind of faith, the most solemn.

These gentlemen, ministers, members of the clergy, can not come and with force make an argument that when the treaty relations that by agreement with the tribes have ceased to be, and ask you to break faith with the solemn oath that every member of this committee took when he was inducted into his office. You ask them to break that most complete faith of all and that is the highest matter of national concern. I merely present this in answer to the gentle-

man's argument as to keeping faith. I do not think that that can be put forward with good argument for keeping the faith, and I believe that is a complete answer to the proposition. It is to my mind a complete answer.

Mr. LLOYD. What clause of the Constitution does it violate?

Mr. DAVIS. That is, in which respect?

Mr. LLOYD. You say that if we put this in the bill it will be a violation of the Constitution of the United States. What part of the Constitution of the United States does it violate?

Mr. DAVIS. The general police power of the State. I was just coming to that. That provision which expressly provides that all powers not granted herein are reserved to the States, supplemented by decision after decision of the Supreme Court, without number, in line with this view.

Mr. LLOYD. I did not intend to interrupt you.

Mr. DAVIS. That is all right. As it was decided in the Heff case.

Mr. REID. There is a provision in the bill to this effect:

That provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all children of said State and free from sectarian control, and said schools shall always be conducted in English.

Do you object to that provision?

Mr. DAVIS. No, sir.

Mr. REID. Would it not be excluded on the same principle that you have insisted upon?

Mr. DAVIS. I think not. I think there is another provision in the Federal Constitution which makes that permissible. The unwritten law with reference to the Constitution is that the English language is the language of the United States and the language of the various States. I think within that interpretation that it is permissible.

Mr. BEALL. What about this requirement, before you come in that you shall provide for a system of public education? Is not that such a restriction upon your right to come into the sisterhood of States as the other would be?

Mr. DAVIS. Whether we come in and establish a school system?

Mr. BEALL. Yes, sir.

Mr. DAVIS. That is a physical impossibility before we come in.

Mr. REID. You must make arrangement for the establishment of such schools as are mentioned there. Your contention is that you come in free of any limitation. Would not that clause also limit you?

Mr. DAVIS. No; I think not.

Mr. REID. Would it not apply with equal force?

Mr. DAVIS. As to the Indian Territory, it would be impossible to establish a system of schools.

Mr. BEALL. What is the difference between requiring you to do a certain thing and requiring you to say in your constitution that you will do a certain thing?

Mr. DAVIS. I am not sure now. Speaking to the general point of view, I have not given that phase of it consideration. I am rather inclined to think that that comes within the rule of police regulation, and if it does it would be an unconstitutional section.

Mr. MCKINNEY. You say that you are in favor of our keeping the

faith of the Government as expressed in the treaties with the Five Civilized Tribes?

Mr. DAVIS. I will say that I think the National Government has kept faith with the Five Civilized Tribes. We have enforced the law. It is still in effect; and we will enforce the law until March 4, 1906. At that time the tribal governments go out of existence.

Mr. MCKINNEY. All the terms of the treaties negotiated with these tribes will cease, then, on March 4, under your interpretation?

Mr. DAVIS. When the tribal relations are dissolved.

Mr. COLE. Was it not understood at the time of the signing of these agreements that this condition was to begin at the expiration of the term?

Mr. DAVIS. Upon that question I am not prepared to answer, because I have had no conference with the gentlemen who signed the treaties at that time.

Mr. COLE. That was the construction that the gentlemen who signed the treaty undoubtedly placed upon it.

Mr. DAVIS. That is very true, possibly. I do not know as to the fact, but the point I make is this, that you have got to keep the faith until the day the tribal relations cease. When you have done that you have done all you can possibly do from a legal standpoint.

Mr. CAPRON. Then, if the tribal relations between the General Government and the Five Civilized Tribes cease on the 4th of March, 1906, how would you explain or interpret the provision that for twenty-one years the General Government shall in a certain sense continue these people as its wards because they are not permitted to do what full citizens always are permitted to do in regard to their land? They can not alienate their lands for twenty-one years, and it is proposed that this prohibition shall extend for twenty-one years, during which time that relationship, in a sense, of the wards to the General Government shall continue. The General Government, in other words, keeps its hands on them during the twenty-one years in which they are prohibited from alienating their lands.

Mr. DAVIS. I will answer that in this way: There are two relations which the Indians of the Indian country occupy with reference to the National Government which they do keep now. The civil and political status of the Indians in the Indian Territory at this time are the same to all men alike. I am a citizen of the United States, and that is all the protection I have and that is all the protection they have. That is their civil and political status; it is mine. But the property status of the Indians is different from ours, and in 197 United States Reports, in the Heff case, Mr. Justice Brewer, in a very able decision, considers all the matters that the gentleman here speaks of, and I will read a few extracts from that decision. If the members of this committee have not read the Heff case, I wish to commend it to their most careful consideration. The decision is written by Justice Brewer, one of the ablest men upon that bench. Right along in line with the gentleman's suggestion I will read from the opinion. In the syllabus it says:

The general police power is reserved to the States subject to the limitation that it may not trespass on the rights and powers vested in the National Government.

Now, that the State may not trespass upon the rights of the National Government, and, in turn, our position is that the National Government may not in any sense trespass upon the police power of the State, and we claim that to put this provision in the bill is trespassing upon the police power of the State, with reference to public safety, public order, and public morals, which are internal matters strictly. This is from the opinion. It says:

Of late years a new policy has found expression in the legislation of Congress—a policy which looks to the breaking up of tribal relations, the establishing of the separate Indians in individual homes, free from national guardianship and charged with all the rights and obligations of citizens of the United States. Of the power of the Government to carry out this policy there can be no doubt. It is under no constitutional obligation—

Here is the proposition exactly—

It is under no constitutional obligation to perpetually continue the relationship of guardian and ward.

And in this opinion Justice Brewer says it can not be done.

It may at any time abandon its guardianship and leave the wards to assume and be subject to all the privileges and burdens of one sui juris. And it is for Congress to determine when and how that relationship of guardianship shall be abandoned. It is not within the power of the courts to overrule the judgment of Congress. It is true there may be a presumption that no radical departure is intended, and courts may wisely insist that the purpose of Congress be made clear by its legislation, but when that purpose is made clear the question is at end.

And you have already, as I said sometime ago, set out upon this policy and made all members of the Five Civilized Tribes citizens of the United States.

Mr. LLOYD. Do you believe that it would be a violation of the Constitution of the United States if Congress in this enabling act were to say unless you people insert the prohibition clause in your constitution you shall not be a State?

Mr. DAVIS. I maintain this, that when you do that you undertake to do a legal impossibility. That is my position. Or, in other words, I mean to say exactly this: You put something into this enabling act. It comes down to our people. We have a constitutional convention. We may or may not adopt the provision with reference to intoxicating liquors.

Mr. LLOYD. Suppose we put the provision in the enabling act and you do not adopt it, then it will depend upon Congress whether you shall be accepted or not?

Mr. DAVIS. That is true.

Mr. LLOYD. The Congress of the United States is not bound to accept you as a State?

Mr. DAVIS. I admit that. However, after the President has issued a proclamation which makes us a State, the next legislature might provide for an amendment to the constitution and the people may turn around, if there is a majority of votes therefor, and amend the constitution. I think there is no lawyer who will say that the State has not the power to amend its constitution, except it should be limited by the Federal Constitution; the State has that power.

Mr. COLE. The enabling act for the organization of the Northwest Territory provided that slavery should not be allowed. Do you think that one of the States of that Territory had the right, after being admitted, to repeal that section of the constitution?

Mr. DAVIS. This is my position: That any State of this Union may amend any section in its constitution that does not conflict with the Federal Constitution. There is no power on God's green earth which prevents any State of this Union from amending any section or article in its constitution, except as it may be limited by the Federal Constitution.

Mr. KLEPPER. As to the present clause in the bill, do you think that it is constitutional?

Mr. DAVIS. Do you refer to the provision in the Hamilton bill?

Mr. KLEPPER. Yes, sir.

Mr. DAVIS. If the constitutional convention of Oklahoma were to pass it?

Mr. KLEPPER. Yes.

Mr. DAVIS. I do not. If that were put in the constitution of Oklahoma, I think it would be a class discrimination between the citizens of the State.

Mr. BEALL. Are you in favor of striking the provision out?

Mr. DAVIS. Yes, sir.

Mr. KLEPPER. The Hamilton bill provides that Guthrie shall be the capital of the State until 1915. Is that a constitutional provision, provided that you decide to change the location of the capital?

Mr. JONES. It certainly will be if we pass a constitution in line with it.

Mr. KLEPPER. Suppose you do not do so?

Mr. DAVIS. Then we will be where we are now, still knocking at the doors to come in.

Mr. LLOYD. Suppose you adopt in your constitution a provision that Guthrie shall be the capital of your State, and then in six months you should have another constitutional convention, change the constitution, and put in Oklahoma City as the capital, and agree upon it and the people ratify it, would not Oklahoma City be the capital?

Mr. DAVIS. If regularly done under the constitution by an amendment, it would be.

Mr. McGUIRE. One of the questions asked here was whether the Government intended to obligate itself in the treaty stipulations beyond the period of territoryhood. If the committee should construe those stipulations to be that the Government did intend to obligate itself, your position would be that we should stand by that obligation?

Mr. DAVIS. If there was any legal way by which it could be done.

Mr. McGUIRE. If we could legally insert the provision prohibiting the importation, manufacture, or sale of spirituous or malt liquors, then that would be your position in case it should be construed that the Government intended that these treaty stipulations should mean that prohibition should be perpetuated in what is now the Indian country?

Mr. DAVIS. If the State goes ahead in the regular way and passes a constitution in line with what you present here, as long as that remains the constitution of the State of Oklahoma this provision will be enforced. But particularly our position is practically this now: I am neither a prohibitionist nor am I on the other side, nor am I a temperance man. In undertaking to put such a provision in, it is the nature of a force bill. I would say to the gentleman on the other side who have rather the affirmative proposition here that if you

desire prohibition in the Indian Territory you had better write it in the breasts of men than write it upon the statute books, for, as has well been said, it is not law that which may be written upon paper, but that only which is written upon the breasts of men.

Now, the gentlemen on the other side have said, and I believe that they are correct—it is a matter of opinion—that the prohibition provision would carry in both Oklahoma and Indian Territory. If that is true, why not present it in that form; and I suggest this, that the National Congress will keep in effect until the day we are admitted into the Union the Indian Territory liquor law, and in the meantime if the enabling act was passed, why could not these gentlemen go out and make their campaign upon that issue and succeed in electing their delegates to the constitutional convention?

Mr. LLOYD. It is your opinion that that is the sentiment of both Oklahoma and the Indian Territory?

Mr. DAVIS. That is purely problematical. In order that the members of the Committee on the Territories may not misunderstand my position—

Mr. LLOYD. I am not concerned about that. You have been talking about the opinion of your people. Do your people want prohibition?

Mr. DAVIS. I will say this for Indian Territory. I live there. There is a feeling now of resentment against the law amongst the men who would support such a provision, a prohibition provision, for the reason that it is to be done without their consent. What the result would be on a vote upon that question I do not know.

Mr. LLOYD. I would be very glad if you would answer my question.

Mr. DAVIS. I would say this, that in Indian Territory I believe it would carry. I am not acquainted with Oklahoma.

Mr. REID. What would carry?

Mr. DAVIS. Prohibition.

Mr. REID. The people there are in favor of it, in your judgment?

Mr. DAVIS. Yes, sir.

Mr. KLEPPER. I believe you had a constitutional convention at Sequoyah?

Mr. JONES. Yes, sir.

Mr. KLEPPER. I will ask you if this question of prohibition was not submitted there?

Mr. JONES. Yes, sir.

Mr. KLEPPER. Do you remember how the vote was on the proposition?

Mr. DAVIS. I think it was largely in favor of prohibition in the Sequoyah constitutional convention. I was not there, but that was the newspaper report.

Mr. KLEPPER. The vote was 56,279 to 9,073 for prohibition.

Mr. DAVIS. I would say, personally, that my position is this: I am in favor of a provision in the constitution of Oklahoma that the State shall manufacture and sell all intoxicating liquors that are sold in the new State at actual cost, with a local-option clause. That is my position exactly; that the State shall manufacture and sell all liquor that is sold at actual cost, with a local-option clause.

Mr. LLOYD. That is the South Carolina law?

Mr. DAVIS. No, sir.

The CHAIRMAN. I understand that when the gentleman speaks of

the vote for prohibition he means the vote on the proposition to adopt the constitutional provision which contained a prohibition clause?

Mr. DAVIS. Yes, sir; the clause is the Kansas constitutional clause on liquor. It is a very strong clause.

Mr. SWEET. There was no dissenting vote against the prohibition amendment.

Mr. McGUIRE. Mr. Chairman, just one suggestion in that connection. There is untold volumes that were written in connection with that vote, and I am very anxious that the chairman of this committee should not accept that vote as showing how many people were in favor of that constitution. This is aside from the prohibition question. In Oklahoma and the Indian Territory we do not accept that as a vote, and we may have a good deal to say about it. In fact, we challenge that vote.

The CHAIRMAN. We trust that will be made plain.

Mr. McGUIRE. At the proper time, if the committee wants to hear anything on that proposition, I want to be heard very fully.

Mr. DAVIS. The vote at Sequoyah is not an expression of the people. That is the truth of the matter. The question that was put to me was whether the prohibition amendment in that constitution carried. It did upon the vote cast—from a newspaper report. There were about 21,000 votes cast upon that constitution, whereas there are 125,000 votes in the Indian Territory. In my own town there was not a vote cast. There was no election board there at all.

The CHAIRMAN. How many people are there in your town?

Mr. DAVIS. There are 300 votes. There was one little town in the Choctaw Nation where they voted upon the question. The Sequoyah constitution provided that you could only vote for or against the constitution as a whole. There was a great deal of rivalry in regard to county seats and many votes were not cast, and by far 75 per cent of the citizens of Indian Territory are not in favor of the Sequoyah constitution. They are opposed to it—at least 85 per cent.

The CHAIRMAN. How do you arrive at that?

Mr. DAVIS. There were 21,000 votes cast for the Sequoyah constitution out of 125,000 votes in the Indian Territory.

Mr. McGUIRE. You started to mention some incident.

Mr. DAVIS. In the town of Wilburton, Choctaw Nation, they held an election where the question passed upon was whether there should be one State created out of the two Territories or one State of the Indian Territory, and the vote was 1,732 to 43 for one State out of the two Territories.

Mr. LLOYD. The Sequoyah constitution was voted upon in the Indian Territory?

Mr. DAVIS. Yes, sir.

Mr. LLOYD. And that carried by 56,000 to 9,000?

Mr. DAVIS. I do not so understand. I understand that there were 21,000 votes all told polled for and against the Sequoyah constitution.

Mr. BRICK. Ordinarily in every election there is some paramount question that the people are talking about. Was there any in this election?

Mr. DAVIS. The most important question was county seats.

Mr. BRICK. Was the prohibition question or the liquor question one of the burning matters in this election or was it something else?

Mr. DAVIS. It was not so considered, generally speaking. The gen-

tlemen on the other side—I remember one of them, Mr. Sweet—said that it was their desire to get this provision into the bill so that they may have the right of advantage. I think that is wrong. They should rather say in the place of “right of advantage” that they simply want the “advantage of right.”

Gentlemen of the committee, I hope that you may see your way clear in the interest of statehood to pass a bill without any provision whatever, but if you do see fit to put in a provision I hope that you will keep simply in line with your treaty obligation, which is solely for the protection of the Indians in the Indian Territory. If you do that and go no further you keep within your treaty obligation. I thank you.

Mr. JONES. Mr. Chairman and gentlemen of the committee, as to the question of the constitutional right of this committee or of Congress, that is not a matter that concerns us, and the question as to inserting a prohibition amendment in this bill is not a question for us to debate here. You gentlemen know what is constitutional, and it is not a question for us to discuss as to whether you have the right or not. That is a matter for you gentlemen to settle, because you have all the treaties and laws and that is a matter which you will settle. We are perfectly willing to leave the matter with you gentlemen and to abide by your decision.

I now wish to introduce to you Mr. Marum.

STATEMENT OF MR. DAVID P. MARUM, OF WOODWARD, OKLA.

Mr. MARUM. Mr. Chairman and gentlemen of the committee, I am a lawyer. I have lived in Oklahoma since 1885, legally. I was what was known as a “legal sooner” in the Government’s employ. I saw that beautiful land which Washington Irving describes and I located there.

Oklahoma is our child. We hope that this committee will not recommend, and that the discredit shall go out to the world, that Oklahoma and the Indian Territory are not fit to accept statehood and to frame and adopt a constitution that will give to every citizen, white, black, or red, the rights and protection that the constitution gives him.

I am not going to argue the question as to what the constitutional right of this body is. I am a witness. I want to tell you what we have done in Oklahoma. I do that because from my old State, New York, where I was born, went up the cry that they would trust the Indian Territory, but they were afraid of Oklahoma. Gentlemen, the only thing by which you can judge Oklahoma is by what Oklahoma has done. Has she been good? Has she been bad? The first thing that Oklahoma did in 1889 was to establish schools and churches in every part of that community.

We have churches every place. We have educational institutions where all can go. We have educational institutions for the colored man as good as Booker Washington’s institution. We have universities and colleges, everything that any State has. We have a liquor law, the harshest that there is in the United States. We are not in favor of the unlimited sale of liquor without protection. By our law the owner of the building and the proprietor of the saloon are held

responsible for any damage done by a man who buys liquor at that saloon. The habitual drunkard and the minor can not get liquor to drink in Oklahoma from any licensed liquor dealer. In Oklahoma a licensed liquor dealer is not allowed to sit on a jury. That is a provision that exists in very few States. The people of Oklahoma are not liquor people; they are as good Christian temperance people as there are in the world, but they want to settle this question themselves, and I would say to this committee that a constitutional provision for local option would be adopted in Oklahoma, while enforced prohibition would be voted down.

We have prohibition and have it in plenty, and you will find, gentlemen, if you look over the receipts of the Internal Revenue Department, that Oklahoma with half the population of a neighboring State has 1,100 places that pay taxes to the United States for revenue, while in the prohibition State with about double the population there are 3,420 places which pay taxes to the Government of the United States as retail liquor dealers, so that they can evade coming into conflict with the strong arm of the United States for violating the revenue laws.

If it should be the sense of this committee and the Congress of the United States to give us prohibition, give us prohibition straight and pass at the same time, gentlemen, a law prohibiting the Government of the United States from granting liquor licenses. Do not give us the drug-store joint. Do not put that on us. A place where a man, if he will hold up his hand and swear to a lie, can get all the whisky he wants. Give us prohibition straight if you are going to give it to us at all. Do not put the burden upon Oklahoma of prosecuting violation of prohibition laws. Leave it where it belongs. Let the United States revenue department prosecute violations of that law. Be consistent.

One of the hardest propositions we have is taxes. We pay 2½ per cent for schools. If we have to prosecute every little violation of the prohibition law we will not have any money left to give to the schools. We want our schools. I yet have to see an educated Indian who was a drunkard. Many things have been said about the Indians before this committee. We have more Indians in Oklahoma than there are in the Indian Territory. We have the blanket Indian in Oklahoma. Under our law they are protected. They get no whisky. I would then suggest that the civilized Indian or the man with Indian blood should not be included with the blanket Indian. There are Indians here who would like to speak to this committee, and they can do so intelligently.

MR. DINWIDDIE. I would like to ask the Judge a question out of our time, if I may be permitted, Mr. Chairman?

THE CHAIRMAN. Without objection.

MR. DINWIDDIE. I understand that the Judge makes the suggestion that the people of the Indian Territory, or at least Oklahoma, would accept a proposition for local option or some other method of control, but that he does not think they would like enforced prohibition. Is there any way by which we can find out which would be acceptable?

MR. MARUM. I will answer the question if you will put it in such shape that I can answer it.

Mr. DINWIDDIE. I will ask you the question whether you would accept a provision in the constitution for local option?

Mr. MARUM. That we shall submit the question to the people?

Mr. DINWIDDIE. No; in the enabling act.

Mr. MARUM. I do not think we can do that.

Mr. DINWIDDIE. Your remarks indicated that you would be willing to accept that. I understood you to say that the United States Government licensed people to sell liquor down there.

Mr. MARUM. That is a technical point. I know they call it collecting taxes, but there is no difference, because if they pay the taxes they are relieved from prosecution for violating the internal-revenue laws.

Mr. DINWIDDIE. I take it that the Judge has not read the section carefully. I think it is 3263, which specifically says that the payment of \$25 special tax does not exempt a man for the violation of a local or State law, and it is printed upon the special tax receipt in red ink, across the special receipt, that it does not so exempt a man. The United States Government not only does not do it, but constitutionally the United States Government can not in a State grant a license to a man to sell liquor.

Mr. MARUM. If they would refuse to sell tax receipts then the prosecution would be for violating the revenue law of the United States instead of violating our law, and our people would not have to bear the expense.

Mr. WEBB. The United States protects them from prosecution by the United States instead of by the State?

Mr. MARUM. Yes, sir. I can best illustrate the conditions in regard to the enforcement of law in Oklahoma Territory by telling an incident that happened in the district court of Woodward County one year ago. We have in that county a population of 50,000 people. The county is located in the west part of the Cherokee outlet, bounded on the west by the Panhandle of Texas and on the north by western Kansas. Many of the citizens of that county came from these localities. We have in Oklahoma a grand-jury system, and under our laws the grand jury has to present indictments in all felony cases. After an absence from the county of any district court or grand jury for six months, the grand jury was organized and given the usual instructions that judges give to grand jurors, and after a careful investigation of the conditions existing in the county and the management of county affairs, they made their report to the court after an expiration of three days that they had found no indictments against any of the 50,000 people living in Woodward County. To commemorate this event the attorneys of the bar presented to the presiding judge (following the old English custom) a pair of white gloves. We think that an event such as this is very rare in any county in the United States that maintains a grand-jury system, and think that it affords the best evidence to this committee that our judiciary enforces the laws, and that the people of Oklahoma are respecters of the laws that they themselves enact, and is the best argument in favor of intrusting the people of Oklahoma with the formation of their own constitution, without restriction, and in the manner that other States were permitted to do.

Mr. JONES. I would like to call on Mr. Russell, of Ardmore, Ind. T.

STATEMENT OF MR. S. H. RUSSELL, ARDMORE, IND. T.

Mr. RUSSELL. I have been practicing law about thirty years. Mr. Chairman and gentlemen of the committee, the proposition is this: Are you going to give, in the enactment of the law providing for the admission of Oklahoma into the Union, the same right that any other State enjoys; are you going to delegate to her such rights as she is entitled to as a State having a republican form of government? The question is not as to your ability to put this clause into the enabling act. I concede that, so far as I am concerned, absolutely, but the question is, Is it right in principle to do so? If you put this provision in the enabling act, you deprive the people of Oklahoma, who desire to act in good faith, of an opportunity to act upon that question. When they accept your provision they accept a contract with you, and they should not seek to disturb that relation. I hope you will leave this matter open for the people of Oklahoma to say whether they want to have prohibition like they do in any other State. That is the question here.

Another thing, I understood our friend who opened the argument the other day to say that if the Indian Territory was alone involved in seeking admission—here is his proposition—then they would not insist upon this clause in the enabling act. Why? Because the Indian Territory would be sure to adopt a clause of that sort in her constitution. This is the whole matter. They want to protect these poor Indians, but they also want to make the conditions for all of us, and insist upon this clause in the enabling act. Another thing, whether the Indian Territory will approve prohibition or not is a mere matter of speculation. I have given my opinion about it. I think our friend did say the other day that it was about two to one, maybe three to one, in favor of it.

The question is this, are you going to treat this great sovereign State in the same way as every other sovereign State in the Union should be treated, or are you going to discredit her at the very outset and say, "We can not trust you all on this moral question, and we will make you swallow that which you would not otherwise swallow if you had an utterance as American citizens." And so that is the proposition here.

I hold in my hand a corkscrew, the only one I possess. A friend of mine from Maine gave me it; not that I have any use for it, but I am simply keeping it as a souvenir.

Mr. CAPRON. You might give that to the governor if you have no further use for it.

Mr. RUSSELL. I will give it to Governor Powers, and I hope he will keep it for thirty or forty years.

Mr. POWERS. While in Maine I should have no use for it, but if I visited your Territory again, as I have on several occasions, I might want it.

Mr. RUSSELL. I will save it for you. Coming back to the other proposition, I do not know how the people of the Territory would vote on this question; no other man knows. I am pretty well acquainted with them. I know that this one has his opinion and so has that one, but the important question is this, If we are entitled to come in as a State, the liquor question should not be the gauge of our

capacity to govern ourselves. Leave this question for the people of the State to determine as to what they think about it. When you get outside the churches and outside the saloons, that is the best way to get the true sentiment. Of course the church has a fanatical sentiment and the saloon has a fanatical sentiment, but go to the people who do not drink and who do not stagger upon the streets, and in the rural districts, and get their opinion. They will tell you this, that they ought to be treated like the people of any other State are treated.

You know, Mr. Chairman, that Ardmore is the biggest town in the Indian Territory, save one, that is Muscogee, and she is only bigger because the Government has been patronizing her. They did not hold an election in Ardmore, and in four or five other big towns in the Territory they would not do it. It was only in those places where there was a rivalry for the county seats. They were told that they could not vote for the county seat in mapping out the Territorial lines unless they swallowed the constitution—that is, unless we swallowed prohibition—and they voted for that constitution in order to get an opportunity to vote whether they should have the county seat.

Mr. BRICK. The county seat was the burning question?

Mr. RUSSELL. The only question. I will leave it to any man to state upon his honor before this committee if that was not the only question.

We came to that country from all the States in the Union. We have the grandest Territory on the face of the earth for a State. We are about equally divided. I want to say that God never gave breath to a man in any country on this earth, a man who breathes more like a man than the men in Oklahoma and Indian Territory. That is the fact. But give us a State free from these provisions so that with honor to herself and honor to the great Government that has the right to say we may come in. I thank you sincerely.

Mr. DINWIDDIE. I would like to introduce Mr. W. W. Hastings.

Mr. SWEET. Mr. Hastings is an attorney and a Cherokee Indian.

STATEMENT OF MR. W. W. HASTINGS.

Mr. HASTINGS. Mr. Chairman and gentlemen of the committee, it certainly affords me very great pleasure to appear before this committee upon this great question this morning. I believe that it has been conceded that the treaty stipulations heretofore entered into placed a moral obligation upon the Government of the United States to maintain prohibition throughout the Five Civilized Tribes in the Indian Territory. I believe it is conceded by all parties that Congress has the constitutional right to require the new State to have a clause containing prohibition. I believe that all parties here have conceded that.

Now, gentlemen of the committee, by way of introduction, I will say that for fifteen years I have almost continuously represented the Cherokee people. I am a part Cherokee by blood. I have lived in the Cherokee territory all my life, and for the past five years I have continuously represented the Cherokee people before the Commission to the Five Civilized Tribes in winding up our affairs. I have for some time in part represented the Cherokee Nation here during sessions of Congress and am now a member of a Cherokee delegation. I

beg the pardon of this committee for making this reference, but I do it to show the committee that I have some authority at least to speak for the Cherokee people.

I want to say to you that it is practically the unanimous opinion, the unanimous prayer, of the Cherokee people that a prohibition clause be inserted in the constitution of the new State. It makes no difference, gentlemen of the committee, what may be your opinion in Michigan or what might be your opinion in Maine or in Vermont. I beg that you will turn your eyes to the conditions in the Indian Territory. There the Indians did own up to three years ago every single, solitary foot of land within the Five Civilized Tribes. Go to any State in the Union, and where do you find that condition to exist? Down in the Indian Territory we have 31,400 square miles of land, and up to three years ago not a foot of that land could be alienated to a non-citizen, but the title was kept in the Indians themselves. Now, I concede that for not only some three or four years, but it has been the policy of the great Government of the United States to educate those Indians for at least three-quarters of a century, so as to bring them up and make them citizens of this great Government.

Citizenship is now about to be conferred upon them. Their land is being allotted and allotment has been in progress for the past three or four or five years. It will soon be completed and patents will be given them. The right to alienate a portion of the land is to be conferred upon them by statute. The request was made of other committees here that Congress should increase the right of alienation; and let me beg this committee, let me warn you now, that if this State is formed without a clause requiring prohibition I say that these Indians will be robbed of their lands and will be turned out of their own homes. Let me say to you, gentlemen of the committee, that I am earnest in the belief that throughout the Cherokee Nation nine-tenths of the Cherokee citizens are in favor of a prohibition clause in this constitution.

Now, it will be argued that we can take care of this question at home. Let us look at that for a moment. There are about 80,000 Indians in the Five Civilized Tribes, or about 20,000 votes. I grant you if you will require a vote of those people, of the Indians and of the whites who have been in there long enough to be in sympathy with them, that this prohibition clause would be carried by ninety per cent, but I do not know, gentlemen of the committee, what would be the result of a vote upon the prohibition question if all the new influx of population were allowed to vote upon it, including new arrivals who are not in sympathy with the Indians; but if you require it to be placed in this constitution, if it is now required to be made a part of the organic law, let me say that after the formative stage is over, when the people have settled down to the second sober thought, let me tell you, gentlemen of the committee, that such a clause in the constitution will never be taken out. I say, Mr. Chairman and gentlemen of the committee, it is the Indians of the country that ought to be protected. They want and deserve to be protected within the next few years, and after that time I believe that they will be able to protect themselves. I believe the people who come in there will see the necessity of maintaining the prohibition clause and that it will be retained in the constitution.

The CHAIRMAN. I would like to ask you a question. What would you say to a suggestion that the enabling act contain a clause that the constitution of the proposed State should limit the sale, barter, giving away, etc., of liquors to the present limits of the Indian Territory and Indian reservations within the proposed State of Oklahoma, with a view to performing whatever moral obligation this Government would be under to the Indians in this behalf?

Mr. HASTINGS. I am very glad to answer that question. If that can be constitutionally done—and I have some doubts as to whether the constitution could be so framed as to make prohibition in one part of a State and not in another—but if it can be done, and if in the judgment of this committee and Congress it can be done, so far as I am concerned, representing the Indians in the Indian Territory, I should be perfectly willing to have it binding upon them and upon no one else; but the antiprohibitionists in the other part of the State will be a constant menace to this provision, and by a union with the minority on Indian Territory side could more easily amend the constitution.

Mr. MCKINNEY. I have understood you to say that you have acted as the representative of the Cherokee people for some years?

Mr. HASTINGS. Yes, sir.

Mr. MCKINNEY. In these treaties?

Mr. HASTINGS. Yes, sir. I assisted in writing the first one in 1899, and I have been more or less connected with every one entered into since.

Mr. MCKINNEY. In these treaties leading up to the tribal relations there was a clause in regard to the prohibition of the manufacture and sale of liquor within the lands of these tribes. Was it your understanding that that obligation on the part of the Government expired on the 4th day of next March?

Mr. HASTINGS. Unquestionably all treaty obligations expire on the 4th day of March, but I want to add that I believe there is a moral obligation upon the Congress of the United States aside from treaty stipulations to see that these Indians who own their lands shall be protected against their own appetites, because it has been the policy of the Government for the past three-quarters of a century to so protect them. A treaty obligation is only a legal obligation. It is only a moral obligation in the sense that the Indians can not compel their observance. It is one that Congress can annul at any time, and has so been decided by the Supreme Court of the United States in a number of cases.

I want to say to this committee that I was a member of the Sequoyah constitutional convention. There have been a good many remarks made derogatory of that convention, and inasmuch as I was chairman of the subcommittee that drafted the constitution and inasmuch as I took an active part in it, I want to say that I am ready to defend that convention and am ready to answer any question that any member of this committee desires to ask. I am ready here to say that the prohibition clause which was inserted in that constitution passed the constitutional convention unanimously. I want to say that all of the governors of the Five Civilized Tribes were represented. I want to say that the Indians were represented and that the whites were represented. It was the unanimous sentiment of that convention that there ought to be a prohibitory clause in the new con-

stitution, and a very stringent one was inserted in the one that was presented to the people for a vote.

And I want to say that while there were only 65,000 votes cast upon that constitution, it was like an off election in your States. The President was quoted as being against separate statehood. Nearly every member about this table was quoted in flaming headlines throughout all that country as being opposed to a separate State, and the question was not fairly and squarely put down there as to whether those people were in favor of separate statehood or joint statehood. If that question were submitted, and I dare those people to allow it to be submitted, as to whether they are in favor of separate statehood, if you will give us that right, separate statehood will carry by at least a three-fourths vote. Their only argument was that separate statehood was impossible, and for that reason a good many people stayed away and did not vote.

The CHAIRMAN. I suggest if the committee desires to hear Mr. Hastings further that we hear him at the next meeting of the committee, as it is important now for the full committee to hear a report of a subcommittee upon another bill.

Thereupon the committee took a recess until 2.30 o'clock p. m.

AFTER RECESS.

The committee met pursuant to adjournment.

The CHAIRMAN. You may proceed, Mr. Hastings.

Mr. CAPRON. Before the gentleman proceeds, in order that we may have a full understanding as regards the hearings, I move that the hearing in regard to the prohibition matter involved in this statehood bill close with this day's session.

The motion was agreed to.

STATEMENT OF MR. W. W. HASTINGS—Continued.

Mr. HASTINGS. Mr. Chairman and gentlemen of the committee, I appreciate very much the extension of time that was granted me this morning. I want to say to the committee this afternoon that I only digressed a step from the prohibition question to speak about the formation of the Sequoyah constitution, not that I thought it was before the committee, but for the reason that there had been some statements made on the side that I felt, as a representative of the Indian Territory and as a member of that convention, should not be permitted to pass unchallenged, and for that reason I digressed from the statement that I was making with reference to prohibition and made some observations with reference to the action of the constitutional convention that framed the Sequoyah constitution and put it to a vote.

But, Mr. Chairman and gentlemen of the committee, I will return now and briefly restate my position and, perhaps, make one or two additional statements upon the prohibition proposition. I think that this question, inasmuch as the Indian at one time owned all of the land on the American continent, inasmuch as he has practically given away his land to meet the demands of Anglo-Saxon civilization, until his domain has been decreased to the small area of land within the bounds of the Indian Territory, inasmuch as he is now

asked to give up his tribal relations, inasmuch as he is about to give them up, and inasmuch as he is going to take the burdens of American citizenship, we feel like he ought to have some special protection at the hands of the Congress of the United States. And inasmuch as Congress does not feel that he ought to be made a full-fledged citizen in the sense that he is not permitted to alienate all of his land that some protection ought to be thrown around him, and inasmuch as for the past three-quarters of a century the Congress of the United States has seen fit to insist upon strict prohibitory laws being enforced within his Territory, we say that it is morally incumbent upon the Congress of the United States to see that a prohibition provision is inserted in this new constitution.

Now, Mr. Chairman and gentlemen of the committee, I know from practice before the United States courts in the Indian country, and I know from the instructions of the judges to the grand juries, that nine-tenths of the crimes of the Indians for which they are indicted and tried before those courts are either for the violation of the whisky laws or those crimes which flow from that violation, and the records of the court show it. If it is a case of larceny, it is directly traceable, Mr. Chairman and gentlemen of the committee, to his desire for whisky, and the theft of something and the disposition of it is in order to enable him to buy whisky. Now, another argument was introduced here yesterday suggesting that whisky be prohibited from being sold to the Indians alone. You can see that that is entirely impracticable.

Suppose you go down into one of these towns, can a barkeeper keep a roll of every member of all these tribes and when one of us fair as I am walks up to the counter to take a drink run and get his roll to determine whether or not he is permitted to sell it to him? I say that is impracticable. It can not be enforced in that country. I say that the only way to enforce it is to require the new State to have a provision in its constitution prohibiting the introduction and the sale of liquor into that new State. It has been argued that that can not be enforced. Let me say that we have such a law in the Indian Territory at the present time, and I want to say that it has been enforced since the Federal Congress has had control of that country, and it is enforced to-day, and let me say to you that I regard that assertion as a slander upon the good citizenship of the people of Oklahoma and the Indian Territory. If you say that the standard of citizenship of that country is not high enough because some of them do not believe in prohibition, not to enforce a law that was enacted, it would be to say that their citizenship was very low, and if their citizenship is that low, then I say that they ought not to be admitted as a State of this Union.

To reiterate what I said this morning, if this clause is now made a part of the organic law when conditions get settled in that country, when the new immigration comes in and they get in sympathy with the Indians, when they understand that it is for the best interests of the Indians, I say it will never be taken out; but if we vote upon it now, with thousands of those people who never saw an Indian in their lives, who do not know anything about the Indians, and thousands of people in those towns never saw an Indian in the Indian Territory, if the question were presented to that class before they got in a settled condition they might vote out this question of prohi-

bition, which I think is so vital to the welfare of the Indians in that country.

I want to say that the Indian governors—Chief W. C. Rogers, from the Cherokee Nation; Chief Pleasant Porter, of the Creek Nation—and every single, solitary delegation, every Indian delegate in the city of Washington, is behind and agree with me upon this question, and none of them are religious fanatics, as the friends of prohibition are sometimes called, upon this question of prohibition. Every single representative of the Indian tribes in the city of Washington representing these people is in favor and insists upon a prohibition clause being inserted in the constitution, and every time the Indians have spoken by resolution, act, or treaty they have demanded and insisted upon it.

Mr. WEBB. Would you be satisfied and would your people be satisfied with a provision in the constitution prohibiting the sale, manufacture, and dealing in whisky within the territory now occupied by the Indians?

Mr. HASTINGS. I answered that question this morning—that so far as I am concerned—I have nothing to do with Oklahoma—I would be, speaking personally, except, as I stated, the saloon element in Oklahoma would always be a menace to this provision, and then I suggested there is some doubt as to whether it could be done constitutionally.

The CHAIRMAN. And the prohibition should also extend to the Indian reservations in the States.

Mr. WEBB. Yes, sir; I meant that also.

Mr. LLOYD. I would like to ask the unanimous consent of the committee that my colleague from Missouri, Mr. Murphy, who is quite familiar with the conditions in the Indian Territory, be permitted to have ten minutes to address this committee at the present time, and that the ten minutes be not counted against either side of this proposition.

The motion was agreed to.

STATEMENT OF HON. ARTHUR P. MURPHY, OF MISSOURI.

Mr. MURPHY. Mr. Chairman and gentlemen of the committee, I came to Washington as an exponent of the Sequoyah idea. I advocated it because I believed it was right and because I believed that the Government should pay their obligations to the Indians of that country at par. That has been decided against me—practically so. I was selected as the member of Congress who should introduce the Sequoyah bill, and, failing to get the Sequoyah bill, it is my duty to get as much as we can incorporated into the enabling act of Oklahoma, in justice to the people of that country, as was voted upon and carried by them in their constitutional election. One of those provisions was prohibition. The Government has been dealing with the Indians by treaties for a great many years. I believe for seventy years they have absolutely prohibited even the introduction of a drop of liquor into the Indian Territory. In every treaty, I believe, that has ever been made there has been incorporated the provision that the Government would maintain strict laws with respect to prohibition in the Indian Territory. Those treaties, as the Supreme Court of the United States has decided, should be interpreted as the Indians

understood them at the time they were made, and in the case of *Jones v. Meechan* (175 U. S., p. 1) it is said:

In construing any treaty between the United States and an Indian tribe it must be borne in mind that the negotiations for the treaty are conducted on the part of the United States, an enlightened and powerful nation, by representatives skilled in diplomacy, masters of a written language, understanding the modes and forms of creating the various technical estates known to their law, and assisted by an interpreter employed by themselves; that the treaty is drawn up by them and in their own language; that the Indians, on the other hand, are a weak and dependent people, who have no written language and are wholly unfamiliar with all the forms of legal expression, and whose only knowledge of the terms in which the treaty is framed is that imparted to them by the interpreter employed by the United States, and that the treaty must therefore be construed, not according to the technical meaning of its words to learned lawyers, but in the sense in which they would naturally be understood by the Indians.

When the Curtis bill was passed it was for the purpose of allotting the lands in the Indian Territory that they might be formed into a State, and afterwards, in 1901, a treaty was made with the Creeks that they consented to the allotment of their lands for the purpose of being formed into a State. A provision was incorporated in that treaty that strict laws in regard to prohibition should be maintained in that country. The Indians understood it. I know from five years' experience as attorney for one of the tribes that they understood it, that when they were brought in as a State they were to have absolute prohibition.

Now, who is back of this movement here to take liquor into the Indian Territory? I believe it is a set of attorneys for the railroad companies, who will haul beer by the carload in there, and the Brewers' Association, with headquarters in the State of Missouri. I received last night a telegram from the Missouri State Brewers' Association which I want to go on record before this committee:

ST. LOUIS, Mo., December 14, 1905.

HON. ARTHUR P. MURPHY,

House of Representatives, Washington, D. C.:

All the brewing firms of Missouri instruct me to kindly request you to vote against and use your influence to induce your colleagues to do likewise on the amendment proposed by Mr. Gallinger to foist prohibition on the Oklahoma statehood bill, which is to be voted upon at the caucus of the Republicans, supposed to be held this day.

MISSOURI STATE BREWERS' ASSOCIATION,
By PHILIP STOCK, *Secretary*.

Who is Phil. Stock? The man who has been corrupting Missouri legislatures and the city council of the city of St. Louis, and some of his men are now serving terms in the State penitentiary.

The CHAIRMAN. There was no proposition in the Republican caucus of the kind you suggest.

Mr. MURPHY. It was not submitted to the Republican caucus. I would not submit it on Phil. Stock's word. The men that Phil. Stock has corrupted are now in the Missouri penitentiary and he is going free on account of turning State's evidence.

Now, the Government has maintained prohibition there for all this time because it was right. If it was right then it is right now. If it is wrong now it has been wrong all the time. That is all that the people down there ask, that the Government keep faith with the Indians and pay our obligations at par. They have agreed to main-

tain prohibition in that country, and we say they ought to do it. Do not let it extend around the Indian country and around the Indian reservations. I will tell you when you do that you will find them here with a drug store bill to foist on the people of that country—the whisky drug store, the worst hell hole on the face of God's earth. Why does Oklahoma ask to come in with the bridle off? That is what they are asking, to come in with the bridle off. They are asking for the capital of the State, and the newspapers there are asking for everything and they want to give the Indian Territory nothing. There was something said here this morning about the vote on the constitution. I believe the vote was mentioned here, 56,279 for and 9,073 against. The constitution contains the most stringent provision that has ever been adopted in any State, and it is almost identically a copy of the United States law now in force.

One or two gentlemen have said that at some towns no election was held. I was there, and I know what I am talking about. I will tell you why no election was held—because the people who were opposed to prohibition, who were opposed to the constitution, wrote to the election board and asked them to send them the ballot boxes and the ballots and make them judges of the election, which they did, and they took the ballot boxes and the ballots and carried them off and would allow no election to be held in 60 precincts in the Indian Territory. That is the reason there was no election held in 60 precincts in the Indian Territory.

There is another thing. That constitutional convention was called by the five chiefs of the Five Civilized Tribes, and contained white, black, and red people, I believe; all were represented. That convention was composed of the best men that the Indian Territory affords, and when the constitution was framed the best material in the Indian Territory was placed upon the committees, and I say that the men who passed upon those election returns and who passed upon the election were men of unimpeachable integrity, and that no better citizens live upon the face of the earth.

Why are these people and these Indians here asking this Congress to protect them against liquor in that country? They are asking it because it is right, because we have agreed to do it, and because we ought to do it.

I wanted to mention something along county lines down there, which I understand will not be taken up and which I do not wish to urge only in this: As Oklahoma is asking for everything, I believe that the people of the Indian Territory ought to at least be given their territorial divisions and county seats as they voted upon them in that constitutional election, because if you do not do it, when they get over there this Oklahoma gang will form it all for them, and they will have nothing on God's earth to save them. I want to submit—

The CHAIRMAN. I am obliged to suggest that the gentleman's time is slipping by.

Mr. COLE. In this election upon the constitution, was the liquor question one of the issues of the campaign?

Mr. MURPHY. Yes, sir. It was one of the issues of the campaign, and was the one most talked about in that constitutional convention.

Mr. COLE. Another question, Mr. Murphy. Have you any evidence

to substantiate your statement—I do not question your statement at all—have you any further evidence to prove that in all these precincts no election was held?

Mr. MURPHY. There was a return to be sent to Congress of the election there, showing the various precincts that voted. I think I can produce the evidence to show why the election was not held in those precincts, and in regard to the prohibition question, I have the constitution of Sequoyah here. It was published in all the papers, and it was voted on there.

Mr. MCKINNEY. The prohibition question was voted on separately?

Mr. MURPHY. No; the constitution was voted on as a whole. That is my understanding, but in the convention it was unanimously adopted.

While attorney for the Creek Nation, I want to say to you, I was called upon to pass upon more leases that were obtained by the use of whisky and that they wanted to set aside than almost any other question—in a clandestine manner, of course, so that the courts could not reach them. I knew of real estate men throughout that country who maintained a bottle for the purpose of brokering leases from these Indians. I merely suggest that to show you that an Indian is powerless within the grasp of liquor.

ADDITIONAL STATEMENT OF MR. C. G. JONES.

Mr. JONES. I wish to state my position in this matter so that it will go into the record. I want to state my position in this matter, and the position that I occupy, and why I ought to know something about this matter. I beg the pardon of the committee if I have to use the pronoun "I" once in a while.

There was a convention called at Oklahoma City for the 12th day of July, 1905 consisting of 1,000 delegates, 500 from Oklahoma and 500 from the Indian Territory, and the 500 from each were selected at mass conventions held in each recording district in the Indian Territory and in each county at the county seat in Oklahoma. At that convention there were 1,000 seats, and I wish to state to you that every seat was occupied by a delegate. I submit this to you gentlemen that any gentleman either a member of this committee or anyone else who was at that convention and looked into the faces of the thousand men from Oklahoma and the Indian Territory would not question for one minute that every one of them was competent of self-government. I was chairman of the executive committee and have been since its organization. I signed the call for the first statehood convention that was ever held in Oklahoma or Indian Territory, and in the convention at Oklahoma City the resolution was submitted to the convention by 53 committeemen, 1 from each county and 1 from each recording district and 1 at large.

There was a number of Indians in that convention and there was a number of Indians on the committee on resolutions. That committee was composed of some of the best men, or as good men, as there are in the two Territories, and the resolution was unanimously adopted without a dissenting voice by a thousand delegates, from a thousand different places in those two Territories. I will read the resolution:

We the 1,000 delegates, representing the million and a half of American citizens who reside in Oklahoma and Indian Territories, do hereby declare, in con-

vention assembled, that said Territories are entitled to, and of right ought to, be immediately admitted into the American Union as one free and independent State, on terms of equality between themselves, and on an equal footing with the other States.

That was one of the first sections of the resolution. Now, Mr. Chairman, I wish to say this: Here are 138 delegates from 138 different places in the Indian Territory and Oklahoma, being 83 from the Indian Territory and 55 from Oklahoma Territory. There [exhibiting paper] are the names and their locations, their addresses, and I have found 4 out of the 138—do not understand me to say that there are no more, but I have given their names—only 4 out of 138 who would state to you that they want you to insert in this bill prohibition for Oklahoma and the Indian Territory, and I say to you that the balance of them, and there is not one president of a railroad company, not one man who represents any brewery in any way, shape, form, or fashion that I know of, and if there is anyone here, I would ask him to rise and tell his name. We are not here representing any breweries or representing any railroads that haul beer by the carloads. I want to say to you, Mr. Chairman, that it would be the least of my thoughts. I have dealt with the Indians and I have been in every hole and corner in the two Territories.

I want to say, as God is my judge, I never heard that suggestion made in all this fight. I am here as an American citizen, as a citizen from Oklahoma, asking for joint statehood, because I believe it is to the best interests of the two Territories to have it that way, and so far as this prohibition question is concerned, if you gentlemen around this table and the Congress, Senate, and President feel that it is your duty, that you are under any obligation, either by treaty or otherwise, moral, religious, to protect the Indians down there by throwing around them any protective arm or putting a provision in the law by which you can protect them from whisky, do it. I think that I am voicing the sentiment of 138 men when I tell you that. We are only asking for what a thousand men from a thousand places have asked. I think that what this committee wants to know is what the people of Oklahoma and Indian Territory want. It is not our place to come here and tell you what is constitutional or what the Indian treaties are. You know what they are better than we do. You are constitutional lawyers, some of you, and you have the Constitution here. Give us statehood. Give us one State as American citizens ought to have and let us make our laws and police regulations, and I say to you gentlemen that I believe we will try to enforce them.

The gentleman has said one thing, that the Sequoyah matter is entirely foreign to this. It is almost as foreign as infant baptism or foreordination. Let that be as it may. He said that they did not vote upon this question; they did not vote upon the question for or against joint statehood. Why didn't they when there were delegates from every district, every county, and ever recording district on the 4th day of September, if I am not mistaken as to the date, and I, as chairman of that committee, received the message signed by Mr. Baker as chairman of the campaign committee of the Sequoyah campaign, and you Congressmen know what that means. You have met those fellows, challenging us to a joint debate upon the question. I answered immediately, saying: "If you will submit to the voters of the Indian Territory the question of single or joint statehood, we will meet at

any place and have this question debated to your satisfaction." They refused to do it. We asked them to divide the election boards like they do, Mr. Chairman, in the great Republican State of Pennsylvania and like they do in the great Democratic State of Texas. You know and I know that they divide the election boards. They would not do it. They said, "We are going to make the election machine and we will run it as we please." And I say as a matter of fact to you candidly, as God is my judge, that I never heard of one of the ballot boxes or anything else that was sent to a board down there that anybody took and hid and kept from having an election. Here, right in this room, are men from all over the country. If any of you know of such a thing I ask you to rise and speak.

(Cries of "Nothing in it" and "Never heard of it before.")

Mr. JONES. In one of the places—Ardmore—I can name a gentleman who knows that they never opened the polls, a "rough rider," and I know nobody will question his veracity; I refer to Mr. C. E. Hunter. There is Mr. Barefoot. I know no one will question his veracity. I will ask him if it was a question of prohibition, or what was the question? I will answer that. Why did you not open the polls? Because you wanted one State out of Oklahoma and the Indian Territory and considered the Sequoyah proposition a mere farce and did not want to vote on it at all.

I have had more correspondence, I say without fear of successful contradiction, except the gentleman who represents us, our Delegate in Congress, than any other 20 men in the Territories, and I have never heard one question or hint in the whole Sequoyah fight whether or not it was prohibition, and I did not know whether the question of prohibition was in the constitution. It was not an issue at all. The issue was on county seats. There were some people who wanted to go to the United States Senate, and wanted one chance out of four instead of one chance out of two. Largely that is the case.

I want to again repeat that not a man out of the 138 has ever said that he was in any way, directly or indirectly, connected with any brewery, and no man connected with any brewery has ever suggested to me that I come here and present my views on this question, and when I express my views I express them with authority from a convention of a thousand delegates from a thousand different places, and I say to you that there is a petition petitioning you to leave this question to us, and I have 18,250 signers. I have the petition in my room at the National Hotel, and in the course of ten days I will have 60,000 signers asking you to do so, and then you will do just what you are going to do anyhow—do as you please.

Mr. DINWIDDIE. I want to introduce at this time Mrs. Margaret Dye Ellis, legislative superintendent of the National Woman's Christian Temperance Union, who will speak for that organization.

STATEMENT OF MRS. MARGARET DYE ELLIS, LEGISLATIVE SUPERINTENDENT, NATIONAL WOMAN'S CHRISTIAN TEMPERANCE UNION.

Mrs. ELLIS. Mr. Chairman and gentlemen of the committee, I do not need to apologize for being here, for a large factor that has helped to make Oklahoma and the Indian Territory fit for statehood needs to be represented in this room, the women of the Southwest, and as

their representative I am here before you. That is why I stayed here all day Wednesday, because I represent those, women whom this delegation love, down there, these blessed women who left their homes and went to that southwestern country, and have gone through all the deprivations of pioneer life, and have reared their children in difficulties such as we women of the East know nothing of, women who established homes in tents and shacks and cabins, and as I have gone through this bill it has touched me, you men of Oklahoma and Indian Territory, that not one word is expressed concerning these women. They have helped make that great country what it is to-day.

What is it that made Oklahoma great? Is it because of its marvelous growth? Is it because of its fertile soil? Is it because of the wonderful thrift and enterprise of the citizens of that great Territory? I believe the greatest factor has been the homes established. Some of you gentlemen have brought it out as a point that certain men who favored prohibition were not fanatical concerning religion. Are you not glad that woman has brought her children to know, honor, and regard the God whom we all serve? And so it has hurt me a little that in this bill there is not one word about women. It is "race" and "color," but sex is nowhere spoken of.

Now, here is Indian Territory, with its great population of over 300,000, as I have understood, with 24,000 full bloods and over 60,000 half-breeds.

The CHAIRMAN. How many full bloods?

Mrs. ELLIS. Twenty-four thousand.

The CHAIRMAN. The Dawes Commission I do not think stated that there were as many as that.

Mrs. ELLIS. Doctor Murrow, who has been a missionary in the Indian Territory for many years, is here, and I will ask him how many Indians—full bloods—he understands there are in the Territory.

Doctor MURROW. There are 24,000 full bloods.

The CHAIRMAN. How many in all?

Doctor MURROW. Forty thousand mixed bloods, 10,000 white citizens, 20,000 negroes, and about 60,000 half-breeds.

The CHAIRMAN. Is there a blanket Indian in the Indian Territory?

Doctor MURROW. No, sir.

Mr. McGUIRE. You say there are only 10,000 whites?

Doctor MURROW. Intermarried whites.

Mrs. ELLIS. To be accurate, on the 9th day of July, 1832, Congress entered into an agreement with the Indians of the Indian Territory that under no pretense whatever should liquor be sold in that Territory. That has been reiterated again and again, as has been shown here day after day and hour after hour. It was a promise, a covenant, an agreement on the part of the Government with those Indians. What is a promise? What is the value of a promise in the commercial world? What is the value of a promise in the domestic world? It is everything. The Government promised that these people should be kept from the power of strong drink, and that its sale and barter should be prohibited. Now, we claim that a promise on the part of the Government should be maintained as well as a promise in commercial life. It is understood universally, every man

here acknowledges it, that strong drink with the Indian is his destruction. The question has been asked, Do these people want prohibition? Why, in my position as legislative superintendent of the National Woman's Christian Temperance Union, during the years that I have been in this city of Washington attending to the duties and to representing these women, there have passed through my office hundreds of petitions from the Indian Territory.

In the archives of this grand old Capitol there are stored away to-day hundreds and hundreds of petitions to Congress, both to the Senate and to the House, asking that they should be further protected from the curse of strong drink.

Perhaps the most pathetic petition ever presented in this building was from the young men in Indian Territory. I want to say, Mr. Chairman, that some of them went to you. They began coming to me over three years ago. They read this way:

In the name of God, we, the young men of the Indian Territory, implore the Congress of the United States to protect us against our greatest enemy, the legalized liquor traffic.

Downstairs to-day those appeals are calling to heaven for help.

I received yesterday a letter from a prominent lady in Oklahoma, in which she says:

Two per cent has been put on beer in Oklahoma to start a fund to defeat prohibition, and we all know that there are millions of dollars behind the whisky advocates.

You ask, Do the people want prohibition? The women do. Listen. In ending her letter, she says:

Mrs. Ellis, do you think a thousand letters from the mothers of this Territory would help any?

If it were necessary a thousand letters could be brought here; but we believe it will not be necessary. When our friend the Judge yesterday said that license was the system prevailing in Oklahoma and that it would create confusion in a new State to introduce any other system at the present time I thought of the prayer from those young men of the Indian Territory—

In the name of God, protect us from our greatest enemy, the legalized liquor traffic.

And shall the flood gates of strong drink be opened upon this defenseless people that the cities' streets may be well paved and well lighted? Would it not bring "confusion" to send a father reeling home to his waiting family? Would it not bring "confusion" to break a mother's heart? Surely some better excuse than this must be suggested for disregarding the pledge of the nation.

And when on Wednesday last Mr. Jones, of Oklahoma, with a little catch in his voice, spoke of having to be "mother as well as father" to his little boy, and yet he did not want that prohibition should stand in the way of statehood, I could but wonder if that dear mother could speak if her desire and hope would not be that the streets and avenues of that new State be kept free from the open saloon and made safe for the boys.

No, men of the Fifty-ninth Congress, start the new State on a clean, pure, good foundation. Remember the pledge of the Govern-

ment; say in your action on this bill, "We can not disregard the pledge of the Government to this people; come what will we stand by our word."

And the mothers who to-day are watching and praying will bless you and unborn children saved from the power and thralldom of strong drink will bless you, and God will bless you. [Applause.]

STATEMENT OF MR. R. L. WILLIAMS, DURANT, IND. T.

Mr. WILLIAMS. Of course when I express myself on the Sequoyah election I am also going to express myself on the prohibition question. I want to say this. That whilst I have been opposed to the Sequoyah movement and I do not think that a majority of the people in the Indian Territory are back of that movement, yet I think that this committee ought to provide a prohibition clause to apply to the Indian reservations. I do not think that you ought to provide for prohibition to apply to the Territory of Oklahoma except as to sections comprising its Indian reservations. While I have reverence for the sentiment of the mothers, I view these questions as practical questions as to the enforcement of law. Whilst I have been against the great majority of these Indians on the statehood question, I think we ought to be their friends, and if you go and provide here for this prohibition enactment to apply outside of the Indian reservations you will not be a friend to the Indians. It will then become a political question, for then there will be strenuous efforts for resubmission in order to amend the constitution in that respect. These questions ought to be kept out of politics and by united effort protect the weak. That is all I have to say on that question.

In my town, which is a town of 7,000 people, there were 115 votes cast on this Sequoyah constitution, 112 for it and 3 against it. The opposition refused to vote. There are a thousand votes in that town, and there are 1,500 votes in proximity thereto, making 2,500 people who could vote there. They could not have at most rallied more than 250 votes, even in the town and proximity, where there were 2,500 votes, in favor of the Sequoyah movement. I want it distinctly understood that I believe that a majority of the people of the Indian Territory of both parties are in favor of single statehood. I believe that sincerely. While we recognize the fact that the great majority of the men who favored the Sequoyah movement were honest, the majority of the Indians being "separate staters" from sentiment. They are true to that sentiment; but we are up to the practical questions of the future, of making a State, and we view that high above partisanship. But whilst we disagree with probably a majority of the Indians on the joint statehood question, we would like to see them protected on the whisky question in the Indian Territory. You may just as well send a standing army down there and murder him as to permit the open saloon in his midst. [Applause.]

On the other hand, the property interests of that portion of the State comprising Oklahoma should be considered, and so far as the question of prohibition relates to the Territory of Oklahoma, excepting the Indian reservations, it should be left to the constitutional convention untrammelled.

**STATEMENT OF REV. P. A. BAKER, GENERAL SUPERINTENDENT
AMERICAN ANTISALOON LEAGUE, COLUMBUS, OHIO.**

Mr. BAKER. Mr. Chairman and gentlemen of the committee, I can not speak upon this question from a legal and constitutional standpoint, but from the general standpoint only. I have the misfortune, perhaps, to have a biased judgment in this connection in the minds of some here because of the fact that I happen to be a minister, and yet I am not wholly a novice as to the conditions in the Indian Territory.

Mr. LLOYD. You do not have to apologize before this committee for being a preacher.

Mr. BAKER. I thank you. It was my duty officially to be in the Indian Territory at the formation of the Church Federation of that Territory. To my very great surprise there were present, at their own expense, from all parts of the Territory for the formation of the federated church movement 176 delegates, and to further demonstrate their interest for prohibition statehood for the Indian Territory, in a good deal less time than some of us have been speaking to you this afternoon, they were willing to pledge to the support of that effort \$1,700.

The men who came there paid their own expenses in order to foster prohibition statehood. It was my privilege to visit many of the leading villages and cities and to speak in the churches and to meet the business men. I tried to seek information from all sources. I may say, Mr. Chairman, that there were three sources from which I sought information and always accepted it with a grain of salt. One was the ministers. I knew they thought very largely as I did on these questions. Another class was the real estate men. I have some friends engaged in the business in the Territory and they took me in their carriages and drove me about their cities, showed me the best corners and some of these corners that were already reserved by the brewing interests of St. Louis and Kansas City, anticipating the time when the saloons should enter that country. There were fine commissions on this class of business. Another class was the men who are looking for political preferment in the future. You may rightly say that that reduces the constituency for consultation to a minimum. But I did go to the business men, I went to the laboring men, I went to some bankers. This question I invariably put to them: If the question of saloons is left to you, can you solve it? Almost invariably they replied: "Yes; if it is left to us we can, but the mischief about it is if there is no provision placed in the enabling act upon this question and we come to vote upon it with the population we have in this Territory, and the brewing interests' money (used by their peculiar methods, with which all of us are familiar), we shall not be able to handle it at all."

Mr. Sweet told you something of it when he said that there were 3,000 beer saloon fixtures already assembled around the Territory that have been driven out of Arkansas and out of Texas and other local-option States, ready with all their influence to be brought to bear upon the population of that country.

But I want to speak especially, Mr. Chairman, from the standpoint of the churches. I think they have not been well represented as yet.

Nobody has seemed called upon to represent the churches. My duties are largely with the church bodies of this country, and I would like to say that there is not a question when I go before these bodies that I touch upon in public addresses that so arouses the interest of the churches as the question of prohibition in the Indian Territory. There is reason for it. The churches have expended millions of dollars in that country, and if they had not expended this money you would not now be sitting here discussing the question of statehood. They have made possible a citizenship that you are ready to receive into this Union as a great sovereign State. The Baptist Church alone has expended over \$500,000. The Methodist Church South has expended over \$900,000. The Presbyterian Church has expended over \$2,085,000 already.

I have only named three denominations, and when you take the different Protestant and Catholic churches in this country into consideration they have expended in that country, for the creation of a citizenship, over \$6,000,000. Somebody has suggested that we propose to confiscate the property already invested by the liquor interests to the extent of \$500,000. Turn the saloons into that country and you have largely confiscated over \$6,000,000, which money has been expended to create the citizenship which you are now anxious to bring into this Union. It has been mooted by some that because we are insisting upon prohibition in the Indian Territory therefore we must not be friendly to statehood. Let us not misunderstand. These men who are insisting upon the prohibition clause are as intensely interested in statehood as any of the men who are insisting upon the presence of the saloons or letting the people there decide that question.

Just a word. I am not authorized, of course, to interpret the President's message, but what did the President of the United States mean in his message when he called upon Congress to enact and enforce a law that would prevent "bootlegging" in the Indian Territory among the Indians? If the danger of liquor is so great amongst the Indians when the law, which is now better enforced than the law against horse stealing, and if it is necessary to call forth this utterance of the President of the United States, what would it be if you permitted the opening of saloons in that country? The President, it seems to me, has simply made that statement pointing the way and intending that Congress shall supply the balance, realizing, as he undoubtedly does, what it means to a primitive people like that to have the saloon thrust upon them. Gentlemen, I thank you.

Mr. JONES. I wish to correct one statement made by the gentleman. I want to state that the Oklahoma delegation, so far as I know, is not here asking anything about the capital. We want to be consistent. Give us joint statehood on equal terms with other States and let us settle the capital question and the whisky question.

I wish to introduce to the committee Ex-Governor Barnes.

STATEMENT OF HON. C. M. BARNES, EX-GOVERNOR OF OKLAHOMA.

Mr. BARNES. As I look at it, the objective point of this discussion is how best to protect the remaining few Indians of weak or immature mentality living in Oklahoma and the Indian Territory from the evil effects of an unrestrained liquor traffic. The proposition

of the gentlemen on the other side, who are especially agitating this question that enforced prohibition over a million and a half of people with equal intelligence to those of any of the States, must be adopted to accomplish the desired protection of less than 20,000 full-blood Indians in the two Territories—I quote this number from the report of the Dawes Commission—it seems harsh and unjust to the great number of good people who have made their homes in this country, and yet, personally, I believe it is the sentiment and judgment of a large majority of the people that this should be done, if it is necessary to carry out what is generally believed to be the moral obligation of the Government of the greatest and most just people that inhabit the earth, to protect the poor Indian, whose race is fast fading from the earth.

But is this necessary? We think not, Mr. Chairman, and our suggestion is that the desired results could be reached within the scope of the Constitution by simply requiring the people of the two Territories, as a condition precedent to admission into the Union as a State, to grant to the Government of the United States the right to prohibit for twenty-one years or forever the sale or gift to an Indian to such degree of blood as may be deemed most wise, under such penalties as said Government may see fit to impose, and the enforcement of which should be vested in the United States courts.

The contention that this would be in conflict with the fourteenth amendment, in my judgment, is not good. A careful analysis of Justice Brewer's decision and opinion in the case relied upon by these gentlemen will convince this committee that its jurisdiction, its power, would be unquestionable if the same is granted to the General Government by the State.

The Hamilton bill provides that all the rights and privileges heretofore contracted for by the Government shall remain in as full force and effect as if this act had not been passed. Under treaties and agreements with the Five Civilized Tribes of Indians the Government guaranteed prohibition in the Indian country and to the Indians forever; but, in my judgment, the status of the Indians and the Indian country becomes so changed in the twinkling of an eye when we become a State that there is no longer any applicability of either statute or treaty upon this question, and there remains nothing to be done except to carry out the moral obligation or moral sentiment of the people of the United States as far as it can be done without injustice to the greater number of people who form the new State under the laws of which they must live and which they must transmit to their children for generations to come.

Some gentleman remarked that Oklahoma was here wanting everything, that we not only wanted the capital and all these things, but that we wanted all the State institutions. I want to say to this committee that there has been very little indication on the part of the people of Oklahoma, who have been standing ready for statehood for the last eight or ten years, very little indication of a desire to establish public institutions beyond those necessary educational institutions which we have to-day and which we have established, but the penal institutions and the eleemosynary institutions, none of them has been established in our country. While we have a great fund growing up from the public lands donated to us by the United States,

which we might have used in that direction, we have entirely refrained from locating or establishing a single one of those institutions, waiting for the time which we believed would surely come in the near future when we and the Indian Territory would come into this Union upon the same footing, and we wanted to put them on the ground floor and be fair in all these particulars.

This bill makes these lands of the Indians, as the laws of the United States do, inalienable, so far as homesteads are concerned, in some of the Territories forever, and so far as the other lands are concerned for twenty-one years. That is because the status of the Indian is being gradually brought up from his heretofore condition of wardship to that of full-fledged American citizenship. Why can not this committee equally as well restrain the sale or gift of intoxicating liquors to an Indian the same as it does to a minor and still be within the scope of the Constitution? I think they can. And it seems to me that the provisions of the McGuire bill relating to this question amply covers the case and would be sufficient to accomplish the purpose which is the basis of this contention.

The general sentiment in Oklahoma Territory is to build a State with all the rights and privileges of the original States, a State which shall be altogether lovely and that should have the love and affection of its people as well as to commend itself to the admiration and respect of all good men everywhere. I believe that we stand for good and pure government as well as any other people on the face of the earth, and I believe that our citizenship in Oklahoma and the Indian Territory can sufficiently be trusted with the same powers and rights and privileges that were granted to other States of the Union when they were admitted under constitutional provisions that new States may be admitted with all the rights and privileges of the original States.

Mr. KLEPPER. Mr. Chairman, I understand that Chief Porter is here. As one member of this committee I would like to hear him discuss this question, with the consent of the committee.

Mr. SWEET. I would be glad also if he would discuss the question.

STATEMENT OF GEN. PLEASANT PORTER, OF MUSCOGEE, IND. T.

General PORTER. Mr. Chairman, gentlemen of the committee, and fellow-citizens: It would be very difficult for me to add anything new to what has been said on the subject—that is, prohibition. The other question, as to single or separate statehood, I understand has been disposed of, so far as this committee is concerned.

Mr. LLOYD. Oh, no; this committee has not passed on it. [Laughter.]

Mr. WEBB. Probably he is right, after all.

Mr. MCGUIRE. That is a very correct anticipation, Governor, anyhow. [Laughter.]

General PORTER. On the matter of prohibition I can say, and say truthfully, on behalf of the Indian, that he inherited it. It was his faith before the white man touched the American shore. He ate natural food. He drank natural water. He had a naturally clean soul. These things grew up out of dissipation. You [addressing the committee] have brought your Christianity, your civilization, and

you have brought your evils with you. While we could live with you and agree with you and merge with you in your virtues, we found we were unequal to live and merge with you in the vices you brought with you. [Applause.]

It is natural for the Indian to be a prohibitionist. It is unnatural for him to take into his mouth something that kills his soul, his purity of character. He may take it; he may detest it. You inherit the appetite for it as well as we do.

Now, if you ever make a great and pure nation, it will be when you have learned to curb your appetites, when you have learned to restrain your vices; and this matter of liquor is one of the greatest curses to the human race. That is my opinion, so far as I am concerned, and I have had some little experience of it myself. [Laughter.] I know what it is. I know what an evil it is.

I beg you not to violate your faith in the matter of keeping good faith with the Indian people; in keeping them, so far as practicable, free from the curse of strong drink.

It is not necessary for me to talk to you about it as to the reason why I think it should be done. My very earnestness of nature would tell you what I mean. I know it has devastated this country of thousands of good homes, not only among the Indians, but among your own people. I have not been a preacher of prohibition, and I don't know that I have ever opposed it very much, either [laughter], but I know it is evil, and I know it the better because I have experienced the evil. I am not talking theory. Is there any of you gentlemen who has ever taken 20 or 30 drinks and gone to bed and waked up at 3 o'clock in the morning? [Laughter.] You pant for water and light, and it does not come for three weeks. [Laughter.] There is something practical in that thought which ought to bear fruit.

Now, another thing. You must guard yourselves against this one evil. Do not inhibit or prohibit the Indian and let the other man go scot-free. When our first parents were prohibited to eat of the fruit that grew in the center of the garden, perhaps they would never have known that tree had it not been pointed out and prohibited. [Laughter.] But our first parents ate and fell, and the Indian is no better than his first parents.

You should prohibit it in such a way that we can not get to it. Do not manufacture it. Make it violation of law to bring it into the country. You can not talk to me about confining the law to the Indian reservation. You might just as well confine it to everyone who went into the reservation. These tracts of land are rapidly passing from us into white men's hands. The checkerboard is being rapidly reduced. As to the compass of the law, where it can be enforced, you have then got to prohibit it entirely or you set up a prohibition from which, as I have said, our first parents fell when they ate the forbidden fruit.

In the making of laws a man's nature should be considered. If you make a law, it is for government; you do not make it for theories and isms. You make it for men—natural men.

Now, if you see any way to do that, I hope you will do it. I might say for myself that I am incompetent, but I hope this committee will find a way. That is all I have got to say. [Applause.]

The CHAIRMAN. The committee is very glad to have heard you, General. Who will be called next?

Mr. WEBB. Mr. Chairman, I would like to hear from this Indian minister here. I understand we have one present.

Mr. DINWIDDIE. Mr. Cloud, of Oklahoma. He is a Cherokee Indian. He is likely, from his forced connections, to be called either in Oklahoma or in Indian Territory.

Mr. McGUIRE. Is he the pastor of the white church?

Mr. DINWIDDIE. Yes; of the white church in Oklahoma.

STATEMENT OF REV. H. L. CLOUD, OF WELLSTON, OKLA.

The CHAIRMAN. Proceed for five minutes, Mr. Cloud.

Mr. CLOUD. Mr. Chairman and gentlemen of the committee, it affords me pleasure this afternoon to be here present to represent this great cause. I wish to state in the beginning that a burned child is afraid of the fire, and I wish to be understood as meaning by that that I was once a drunkard and loved the fire water, even though strong prohibition laws existed against it in the Indian Territory.

The effect of it is the very thought that I wish to impress upon you this afternoon—at this moment. I wish to say, in reference to my friend, Mr. Hastings, here, that he was my professor in school, and he does know something about my condition while growing up as a boy.

I delivered an address to the boys of the male seminary at Tahlequah, Ind. T. There were 115 boys present on that occasion, and without any thought whatever I asked them a question: "You boys are going to face the conditions of this country. Now, which would you rather have, the open saloon or a strict prohibition clause in the constitution of the new State?" Not a dissenting voice was heard in that school against prohibition. It is true, as Governor Porter has said, that we inherited the prohibition in our own lives.

On one occasion, when Judge Thomas, of the northern district, at Vinita, sat on the bench and sentenced my brother to be committed to the Federal jail, I said, "I will die fighting the saloons," and I will.

More than that, the white man that married my sister was drunk when she was on her deathbed, and I said, "The white man also needs restraint." They need it in Indian Territory and in Oklahoma. In Chandler, Okla., in Stroud, Okla., which some of them know, and many other towns, as, for instance, Stillwater, I saw things that made me see the necessity of restricting the whites. You tell me, "Restrict the Indians." Oh, help us restrict the white men in Oklahoma and in Indian Territory, for those very men sold it to these Indians on the reservations in Oklahoma, to say nothing about the Indian Territory.

I want to say, my dear friends, in conclusion, that with all love and respect to these other men who take the stand against me and against the prohibition movement, I love them and want to cooperate with them in every good thing, and, my friends, if it lies in my power Oklahoma will in future know more about the prohibition subject than she does to-day. The Indian Territory already has a conception of my idea about prohibition.

I wish to ask, friends, how many Indians were represented in the Oklahoma City convention last July?

Mr. C. G. JONES. One hundred and seventeen Indians.

Mr. CLOUD. Now I wish to say, Mr. Chairman, the very thing I want you to notice is that the majority of these men went there, and perhaps largely by invitation, to help us make the country better. If a man is not better than the local conditions that surround him, how can he help the country? Unless men's lives and characters are of the very highest type, how can you expect the country's character to be of the highest type? It is essential that our lives shall be high morally in this country, or else our force of character is a failure.

Gentlemen, I thank you for your kind attention. Friends, help the Indian. You help us to get rid of the curse and vice in the Indian Territory. We are glad, friends, you have come to live among us, but we are not glad that you seek to impose on us something that we do not want and do not need to make us better. I never saw an Indian or a white man that was ever made better by drinking liquor. But I want to say that while my two brothers have been saved from the thralldom there are others to be saved.

Gentlemen, do the best you can. I am confident you will, for you have always cared for us. Now, help us on to higher and to holier things. I trust each of you will do the best you can. [Applause.]

The CHAIRMAN. Who is next?

Mr. C. G. JONES. I wish to introduce, Mr. Chairman, Mr. Rogers, of Vinita, Ind. T.

STATEMENT OF MR. CHARLES B. ROGERS, OF VINITA, IND. T.

Mr. ROGERS. Gentlemen of the committee, I will say I am a recent acquisition to the Indian Territory, but I have been a close student of conditions in that country since I entered it. I will say further that I am personally inclined to prohibition for that country.

I do not intend to speak upon this matter except as to some questions that were raised here respecting the actual sentiment expressed in that country. I think it best to speak as to my own personal knowledge. I can not represent any other person in that country upon the prohibition question, because it had not been discussed in my part of that country previous to sending the delegates to Washington with a view to determining the attitude the delegates should assume; but I can tell you what the best classes of the people of the community where I live think about this question, and that is that it rests upon me as well as upon them to solve it properly.

The first proposition that confronts you when you enter that Territory—if you take the trip down through there, and that would be the best way to ascertain conditions—if you go up to the average business man and ask him his impression about prohibition for the benefit of that country his answer, in my honest opinion, will be, if he has studied conditions there, that the people down there will have to enforce the law that prohibits, and that they will have to build up a prohibition machine to oppose the machine of the antiprohibitionists. What is every man's business is nobody's business, and the people of that country have come to this conclusion that it does not make a particle of difference, gentlemen, what you do upon this bill, not a particle, because they realize the fact that they will have to settle the proposition themselves. They are ready to settle it. I do

not agree with Mr. Hastings that 95 per cent of the people of the Cherokee Nation are in favor of prohibition.

Mr. HASTINGS. I meant the Indians as distinguished from the whites.

Mr. ROGERS. There is a vast number of people, regardless of race, in the Cherokee Nation and in the Quapaw agency who are absolutely ready to settle the question of prohibition. As to the best way to settle it, I am as much perplexed, perhaps, as you are. Whatever this committee of Congress decides upon the people down there will accept, but I want to impress upon every member of this committee the fact that the people of that Territory expect you to say something, and say it soon. Whatever you say they are ready to accept, and we do not want to see this prohibition fight delay the passage of the statehood bill. That is the proposition. Through the courtesy of the secretary of this committee I have been afforded opportunity to know that certain telegrams were poured into this committee stating that if they can not grant statehood with prohibition they should not grant it at all. Gentlemen, I do not propose to stand a minute for that. There are a hundred thousand children in the Indian Territory to-day who are not receiving that common school education which every American-born child is entitled to receive, because we have no system whereby to secure it. Congress should find it its duty to enable us to educate those children and then they will take care of themselves.

Whatever you do, gentlemen, I insist that you pass some sort of a bill. Personally I do not care. If I knew that the prohibition clause in it would prohibit I would say, "Pass it at once." But I do not know whether it will or not; I doubt it. The people of that Territory, as well as the people of every other community on the face of this continent, must determine for themselves what they shall do on this proposition. It is purely a moral question when it comes to regulation. It is a trade question when it comes to the law.

The CHAIRMAN. I am sorry to be obliged to remind my friend that his time is up.

Mr. ROGERS. All I have to say is that you should pass some sort of a bill, and pass it at once, and not let this fight hang the bill up all winter.

The CHAIRMAN. Who is your next speaker?

Mr. C. G. JONES. Are you ready to close [addressing Mr. Dinwiddie]? Let us close right now.

Mr. DINWIDDIE. We have invited several people to come here, and I do not want to take that turn.

Mr. C. G. JONES. This committee, I should judge, already has about all the information on this subject that they want.

Mr. DINWIDDIE. I was simply extending a courtesy to these others.

Mr. C. G. JONES. I would like, then, to introduce Mr. Charles E. Hunter, of Chickasha, Ind. T., one of the Rough Riders.

STATEMENT OF MR. CHARLES E. HUNTER, OF CHICKASHA, IND. T.

Mr. HUNTER. Gentlemen, I will preface my remarks by saying that I am not a public speaker. I am not used to speaking.

I would like to begin my talk at the tail end, because otherwise it

seems to me that under the five-minute rule I may be cut off before I get fairly into it. [Laughter.]

I am so earnestly in favor of statehood, immediate statehood, quick statehood, just as quick as ever we can get it, that if there is any honorable method that will facilitate statehood I want to bring that in on you gentlemen before I take up too much of your time.

I believe there is a solution of this problem that would be acceptable to the people of Oklahoma, and should be acceptable to the people of Indian Territory, as well as to our friends here who are insisting upon prohibition.

In the first place, let me say, I have lived seventeen years in Oklahoma and in Indian Territory. I have lived for a number of years at Chickasha, Ind. T. We have 11 churches there and 4 splendid schools. The rural districts haven't many schools, as many of the gentlemen have stated, but in some of the cities we have splendid schools, and I want to say that in selecting the delegates from my city of 10,000 people it was particularly looked after that members were not sent here to represent my district (the Nineteenth district) who would favor a prohibition clause in this bill, not because we oppose prohibition, but we do oppose the restriction of our rights. It may be a selfish motive on my part when I frankly state to you that it is commercialism, pure and simple, that prompts that statement, for I believe prohibition will injure the growth of our State.

Down there, in the Territory, we do not want to be tied up, as Kansas has been, and be made for the period of our lives the laughing stock of the country for our isms. We believe we are capable of self-government, and if you gentlemen think we are not capable of handling the liquor question, then we are not entitled to statehood. But if we are capable of self-government, then let us handle that question also.

Now, I believe that the opposition are laboring under a delusion, in so far as they think that if the prohibition clause is not made a part of this enabling act they will have no assurance when they will ever get a chance to vote upon the prohibition question.

I am willing, speaking for myself—and I will say that I have spoken to fifty delegates out of the hundred and fifty that are here with us about this same proposition—I am willing that there shall be a clause in this bill providing that, at the time of the election for the adoption or rejection of the constitution, there shall be a clause debarring any person from engaging in the manufacture, sale, or handling of liquor in the State of Oklahoma for all time. That should be voted upon as a separate proposition, and should not be made a part of the constitution. But if the majority vote in the affirmative, then it should become a part of the constitution. If the majority vote in the negative, it falls of its own force and does not become a part of the constitution.

That does not make us swallow the entire hook, bait and all. In other words, in order to get statehood we will not be forced to take prohibition except as we elect. We want statehood, gentlemen, but we do not want to be compelled to swallow prohibition with it if we can help it.

It is my opinion that the prohibition proposition will be defeated

in those Territories. I want to say that in the seventeen years of my life spent there I have come to believe that there is no place in the United States where they have such stringent prohibitive laws as they have in the Indian Territory, and yet I am also frank to admit that there is no place of equal size in the United States of like population where liquor is handled illegally to such an extent as in the Indian Territory. I am satisfied that the gentlemen who love their community will not admit it [laughter], but you gentlemen who do not drink it, do not have occasion to call for it, and therefore you do not know the conditions. [Laughter.] I must say that when a person goes to a hotel and wants "something," in many parts of the Indian Territory, he has but to tell the porter to get it, and he will usually get it after the request.

Mr. SWEET. How does it get there?

Mr. HUNTER. It is brought there. It is brought into the Territory by "boot leggers."

Mr. SWEET. Do the Indians bring it?

Mr. HUNTER. If there is a gentleman here from the Indian Territory who says he can not get it, I would like to hear him? Can liquor be purchased in your town? I do not mean in open bar rooms, but—

Mr. ROGERS. Sixty-five per cent of the indictments found in my town are for bringing liquor into the town of Vinita. There is quite a document there concerning fellows selling it in the town.

Mr. HUNTER. In many of the towns of the Indian Territory, gentlemen of the committee, we have what they call "sunbeam," and "nutrine," and "nervine," and many other schemes. They are, in my judgment, beers with new labels put on, and it is sold as a non-intoxicant. If a man gets into trouble on account of it, it makes a perjurer of him, and if he goes a little further, it makes him a criminal. In Kansas to-day under prohibition you can find more drunkards than in Oklahoma under a license system.

There are more full-blood Indians in Oklahoma than in Indian Territory. There is less drunkenness and crime among the Indians in Oklahoma than there is in towns of the Indian Territory, which are under Federal enforcement of the prohibition law. Yet Oklahoma has a liquor license law. I thank you, gentlemen.

Mr. LLOYD. How do you know it—from your own knowledge?

Mr. HUNTER. Sixty per cent of the people confined in the prisons of Indian Territory are confined there for violation of the Federal liquor law, mostly for introducing it into the Territory.

Mr. BEALL. It is not enforced, then?

Mr. HUNTER. Yes. The Government, through our courts, enforces it.

Mr. DINWIDDIE. It proves rather that it does, and that the violators are punished for it.

Mr. LLOYD. Is there any horse stealing done in that country?

Mr. HUNTER. Yes; rarely.

Mr. LLOYD. But you are not horse thieves, are you?

Mr. HUNTER. No. [Laughter.]

Mr. SWEET. I now want to introduce Mr. Murrow, of Atoka, Ind. T., who, in the year 1857, with his young bride, went as a missionary to the full-blood Indians, and there he lives at his post of duty to this

day. He is now in his forty-ninth year in this service, and knows as much about the Indians and the conditions in their country as any white man in the Indian Territory.

Mr. WEBB. Missionary of what church?

Mr. SWEET. The Baptist Church.

STATEMENT OF REV. J. S. MURROW, OF ATOKA, IND. T.

Mr. MURROW. Mr. Chairman and gentlemen of the committee, I have lived and labored as a missionary all the years of my life. I have given all the energies of my heart and of my brain to these people. I know them. I know them, Mr. Chairman and gentlemen, and I know them as few men know them. I have visited them in their homes, sat with them at their firesides, and talked with them, and they tell me from their hearts their feelings, and hopes, and fears, and expectations, their troubles, and their distresses. It is not boasting to say that those full-blooded people love me and have confidence in me.

I know them well, and I want to testify to you that those full-blooded people there are bitterly opposed to the introduction of saloons in their country. Self-preservation is as precious to the Indian as it is to the white people, and they know that self-preservation requires that they be free from the temptation of open saloons.

Mr. Chairman and gentlemen, do you know that the first law enacted by a legislative body prohibiting the introduction of spirituous liquor into their country was enacted by the Cherokee tribe of Indians away back yonder, nearly a hundred years ago? The chief and head men of those people saw the pernicious and destructive influence of intoxicating liquor upon their people, and it distressed them a long time; and then they gathered together in council and finally passed this prohibitory law that their people should not introduce intoxicating liquors among the Cherokees. They sent a memorial to this place, to the city of Washington. If I am not mistaken, one of their chiefs bore that memorial on his horse, riding from Tennessee to Washington, and petitioned the President and Congress of the United States to pass a similar law prohibiting the white people from introducing intoxicating spirits into their country likewise.

This would have prohibited it entirely. This would have meant their salvation. But the country did not pass this law until, at the solicitation of the Southern States, these Indian tribes were removed to the West, and when they went out to the West the people here didn't think that country would ever be desirable, and thought that no white men would go there. And so Congress, in deference to the wishes and pleadings of these people, gave them certain promises and pledges. One of them was that they could have that country as long as grass grows and water flows. The Indians understood it literally that way, sirs, that it was to be a perpetual inheritance. Another pledge was that if white men went into that country and they reported the matter they should be removed as intruders; that the deleterious and hurtful influences of the white men should not be admitted into their country to hurt them. Another pledge was that their lands should not be merged into those of any other State or Territory; and still

another pledge, which they prized highly, was that spirituous liquors should be forever excluded and prohibited in their land and country.

Mr. Chairman and gentlemen, all these promises have been broken and violated except this last one, and now, sirs, they are looking to you, they are looking to Congress, to keep this one pledge faithfully to them. They know what an influence it would have. They know what destruction it would bring to their people.

I have said that there are only 24,000 full bloods. They are decreasing all the time. When I first went down to those people there were 60,000 Indians in the Indian Territory and scarcely any white people and scarcely any half-breeds. Now the full bloods are reduced to less than half that number, and now they are pleading with Congress not to withdraw its protecting hand from over them.

Oh, let me plead with you, gentlemen. If it were for the last time in my life, let me plead with you for the red people. Let me plead with you not to desert those people. They are a small people, I acknowledge, but if any of you, sirs, had a family of a dozen children and one was a weakly child, unable to take care of itself, you would not take and drive and cuff that one around or allow him to be cuffed around at the will of his more powerful brothers. On the contrary, you would protect and care for him. Even so these poor and feeble and helpless Indians are looking to the Congress of the United States to defend and protect them until the time shall come when their bodies shall go down into the ground and their spirits shall ascend to the God that made them.

Mr. Chairman, to stand at the dying bedside of an individual is a sad and sorrowful sight. To see a city stricken with some sort of an epidemic by which hundreds are taken to the grave is a sadder sight. But, Mr. Chairman, to see the death of a nation, of five nations, is the saddest sight of all. It does not make any difference how small they are, for they are nations, and you have treated with them as nations, and it is on the statute books. The United States Government has treated with the Cherokee Nation, and the United States Government has treated with the Choctaw Nation. And they are to die by your act, by your treaty that you have made. They are to die on the 4th of March next. On that day this country will witness a sight such as the world has scarcely ever seen before—the death and burial of nations.

Now, I want to say to you, gentlemen, that, knowing the feelings of these full bloods, it is going to be a sad time with them. I sincerely trust that in the Indian Territory there will not be rejoicing on that day, and yet I fear there will be rejoicing, rejoicing, rejoicing. What will it be with these full bloods? Back in their cabins in the hills and valleys of that Territory they will sit with bowed heads, with tearful eyes, with breaking hearts, that their nationality is no more.

Beloved Chairman, you love your country. You love your nationality. You take pride in it. The poor Indian loves his nationality just as well as you love yours, even if it is a smaller one; and when he is compelled to say, "We are no more a Cherokee Nation," or "no more a Choctaw Nation," it hurts their hearts just as deeply, sir, as if this nation were to be blotted out by some cyclone or greater power. Oh, do not consign them to the grave, sir, as drunkards.

Do not bury them under the influence of whisky. Do not do that, Mr. Chairman and brethren.

I wish to say to my brethren of the Indian Territory here if this thing should go through and open saloons are admitted to that Territory they are sowing the wind and they will reap the whirlwind, because the scum and scurf of this whole country will go into that place there to get possession of these full bloods' lands. They own about 4,000,000 of acres of land. These outside people are now trying to get it, and they are getting it. If you admit open saloons there saloon keepers from all over the world will go there to get these Indians drunk, and when drunk the Indians will sign any kind of a paper. And I tell you, gentlemen, such of you as are lawyers, you will have no easy time, because the meanest, dirtiest, nastiest lawyers in the United States will be there to compete with you in order to make those leases and sales binding, in order that they may share in these rich proceeds.

Mr. Chairman, if open saloons are admitted there, then that Territory, instead of being a respectable country, as my brother Williams says, will be almost a hell on earth. God bless you, sirs, and save those full bloods!

STATEMENT OF MR. C. G. JONES, OF OKLAHOMA CITY, OKLA.

Mr. JONES. Mr. Chairman, there might be some misunderstanding as regards the individual interests of the people of Oklahoma and the Indian Territory. I wish to say that on the 22d day of April, 1889, when Oklahoma was opened to settlement, the people came in there from every State and Territory in the Union, including every nationality, and from the 22d of April, 1889, to the 24th of December at midnight following there was no law governing these people, no constables, no sheriffs—there were judges, it is true, but no law except the one main law that ought to control every true American citizen, and that was the moral law. And I want to say to you, Mr. Chairman and gentlemen of this committee, that if you take any State of the Union, or any part of any State, and put together there three or four hundred thousand people of every nationality, gathered from this great country of ours—throw them together there—what would happen?

In this case on the first Sunday churches were held, and school-houses were started, and now there is not a school district in Oklahoma but what contains a school building, and in that building you will find a teacher capable of teaching school in your own State and children just as bright and intelligent as those in any State in the Union, and there is no place that I know of in this great country of ours where the law is more strictly enforced than in Oklahoma and Indian Territory.

Those people there are law-abiding citizens, and we are capable of taking care of ourselves. Otherwise I would not be here as one of these citizens asking for statehood with the privilege of controlling our own affairs. I do not want what is called this side or that side to be misunderstood. It seems to me we are here asking for the same thing. The way to get at it is the only question.

We are willing to let this matter be submitted, Mr. Chairman, to the people. All we are asking this committee to do is to submit this matter to us. We have to make the law and enforce the law—we will have to eventually—and we will have to suffer the penalty. Let us do that. When you do that, in my judgment, you are doing what is for the best interests of the people of Oklahoma and Indian Territory.

Mr. WEBB. Mr. Chairman, may I ask General Porter a question?

The CHAIRMAN. Certainly.

Mr. WEBB. General, do you know how the full-blood Indians in the Indian Territory feel about statehood?

General PORTER. So far as the Creek people—the full bloods—are concerned, they do not believe they are prepared for statehood, although they will make an effort and cooperate with the other nations to formulate a plan, together with the white people, to secure statehood. But so far as I know the people of my country, and I know them very well—I was born there and brought up there, and have lived there sixty-five years—they do not want statehood with Oklahoma. They are willing that Oklahoma should have statehood, and they would be glad if the people of Oklahoma could get it. In that case, they would consider the question disposed of, and they themselves could get along without it. [Laughter.]

We know the people of the Indian Territory. I have no doubt that some of them want to go with Oklahoma. I do not say that they do not. It is natural that they should. They are American citizens, and they are naturally anxious to get into office. [Laughter.] Every American is entitled to get into office if he can, and they want statehood, and incidentally they want two Senators here, and they want to be Congressmen, something like you gentlemen, you know [laughter], and they feel that they are not equal to you until they do get statehood. Perhaps many of their commercial interests would be promoted by their getting statehood. It may be true, but I have sympathy for the people of my own race. We would like to have the chance, and we thought we had practically secured it when we got our people to agree to accept statehood and adopt a constitution with the people we lived with and have got acquainted with; we did not think they would be as hard to get along with as strangers are.

We preferred separate statehood because we wanted our people to take a part in government—a people who have had no encouragement hitherto to take a part in government. All people should want to have a part in government. They should want to vote. We should wish to crush out that idea that the Indians have no chance at all; that the great Government of the United States violates every pledge that it makes to the red man.

That pledge to us was the greatest we ever had; that is, the pledge or assurance that we should have a government of our own, to govern ourselves by our own laws, and not to include us in any State or Territory without our own consent. We agreed to lay down our tribal and enter a more enlarged system of government, including the Indian Territory, at the express solicitation of the Government, and on the understanding with the Government that we, the five united nations, were prepared to establish a government for ourselves. The

people who were among us at that time were not so large in proportion to our number as they are now, but they have joined in with us, and by every law of morals that God ever gave man we are entitled to statehood. That is not the question, though.

Mr. WEBB. Mr. Chairman, with your permission, I would like to ask the Reverend Mr. Murrow the same question. What is their feeling as to statehood?

Mr. MURROW. They want separate statehood, emphatically. They are willing to have statehood, but it is separate statehood that they want, just as General Porter says, in order that they may have a share in their own government. The faith of the full-blooded Indian in the President of the United States and the Congress of the United States, gentlemen, is perfectly and pathetically sublime. It is as strong to-day with thousands of these full-blooded Indians as it was seventy-five years ago. You can not beat it into their heads but what they believe that the Congress of the United States is going to do justice by them, and stand by them, and protect them, and take care of them. Their faith in the Congress and in the President of the United States, I say, is marvelous. It is wonderful, sir.

The CHAIRMAN. Now, gentlemen of the committee, what is your pleasure? Mr. Dinwiddie, you said you had some one who wanted to speak.

Mr. DINWIDDIE. Yes; Mr. Johnston, of Oklahoma city, Mr. Chairman.

The CHAIRMAN. Proceed.

STATEMENT OF MR. J. H. JOHNSTON, OF OKLAHOMA CITY, OKLA.

Mr. JOHNSTON. I can not refrain from going on record individually at this time. Of course, our interest in statehood is so great that perhaps it almost makes moral cowards of us in the matter of issues other than the main one of statehood. We are exceedingly anxious to become a State, for various reasons.

One which I will touch on now, Mr. Chairman, is that we wish to be able to control our conditions, so far as transportation facilities are concerned, between points in the two Territories.

That is one of the most important and effective arguments why it should be one instead of two States. The traffic moving between the Territories could not be controlled by local conditions down there if we were two States. Coal moves very largely from the Indian Territory to Oklahoma Territory. Grain and packing-house products move very largely from Oklahoma Territory to Indian Territory. Without joint statehood these things would be outside our control. With single statehood, however, they would be absolutely within our jurisdiction and supervision.

I believe a great many of the gentlemen are prohibitionists who have been speaking individually on this prohibition question. I believe a great number of this delegation of 150, almost, of people from Oklahoma and Indian Territory, are prohibitionists in practice, and a great number of them are prohibitionists from principle; but so afraid are they to cloud the situation or muddy the water that they are willing to do almost anything rather than bring up an issue which would seem to get you gentlemen divided on the question of statehood. I know that we have the right in this room of

remaining absolutely silent. Gentlemen who are prohibitionists, gentlemen of established reputation, may for that reason refrain from speaking.

Now, the thought that first occurred to me was this, that the way to settle this question is to submit it to the people at the time you submit the question whether the constitution should be ratified or rejected—the question as to whether prohibition should afterwards prevail in Indian Territory and Oklahoma combined as one State. But there is objection to that. That could not happen until after these tribal relations had been dissolved and the saloons had been established.

Now, gentlemen, if there is any way that you can see out of this difficulty, of getting some kind of a makeshift that will tide us over, so that this matter can be submitted to the people, then I say take that course, because I believe that the people of the Indian Territory and Oklahoma Territory, if the question is submitted to them at the same time that the constitution is submitted for ratification or rejection, will vote for prohibition. But if you see no other way, if there is nothing to do except to put this in the enabling act, to keep the saloons out and tide over that situation, then individually—please understand that I am not speaking, as to this, for the delegation, and not for the city that I represent—then individually, I say, I am certainly in favor of prohibition.

Mr. MOON. Mr. Johnston, without expressing my opinion on the question one way or the other, I will ask you your opinion of this question: Suppose the Congress should include in the constitution of the new State a provision that intoxicating liquors shall not be manufactured, sold, or given away in any public or private place in the State of Oklahoma, subject to such restrictions and regulations as the legislature thereof shall provide. Would that be satisfactory to you gentlemen? That puts, as you will observe, the inhibition in the first place in the constitution, and then leaves it to the people, through their representatives, to change it if they want to. You understand, as a matter of law, anyway, that Congress has not the power to put in a constitution something that can not be changed afterwards, when the Territory has become a sovereign State?

Mr. JOHNSTON. I would prefer to leave it to the whole people.

Mr. MOON. That leaves it to the representatives of the people.

Mr. JOHNSTON. Yes, but there is a difference. I am one of those who believe in electing United States Senators by a direct vote of the people. The same difference exists there—

Mr. MOON. If you were afraid of organized government according to the methods of American commonwealths, would it not be bad policy for us to give you any government at all? You would be afraid to trust it to the representatives of the people anyway.

Mr. JOHNSTON. Well, whether it ever gets to the representatives of the people or not, it will finally get to the people themselves.

Mr. MOON. That brings the issue directly to the people. I am not expressing any opinion myself.

Mr. JOHNSTON. I would be glad to see it submitted to the people at the same time that the constitution is submitted.

Mr. MOON. But you see that would be an unfair proposition. The people would vote for almost anything in order to get a constitution.

It ought to be on a separate day or time, after the vote on the constitution. That might be all right.

Mr. JOHNSTON. Now, I have nothing further to say, except in reference to a statement that was made by Mr. Murphy, which does not do the people of Oklahoma full justice. This delegation of 150 people are heartily in favor of the Indian Territory having equal representation in our constitutional convention with the Territory of Oklahoma, and we are heartily in favor of the two political parties having equal representation of clerks on the boards of election. I thank you, gentlemen.

Mr. DINWIDDIE. May I now introduce Rev. Mr. Thomson?

Mr. C. G. JONES. Just a moment. I would like to ask, Mr. Chairman and gentlemen of the committee, to introduce two Indians, one at a time. One is Mr. T. W. Hunter, who at one time was a candidate for governor of his country. These are Choctaws, Mr. Chairman.

STATEMENT OF MR. THOMAS W. HUNTER, OF BOSWELL, IND. T.

Mr. HUNTER. Mr. Chairman and gentlemen of this committee, I have not thought of speaking to you; in fact, I had not thought that an opportunity would be given to me and a number of others, because we have had so many good speakers on our side, and so many from the proposed State of Oklahoma here, that I did not think we would have time.

We have come from Oklahoma in a unique way. We have come here, Indians and white people alike, for one purpose, and that is for the purpose of statehood. [Applause.] We have come here to ask you for permission to join. We want to consummate a grand wedding and a grand reunion between the people of the Indian Territory as it now stands and the people of the Territory of Oklahoma. [Applause.] And when that match has been consummated I am satisfied that the people who will constitute that grand State will have the finest State in the Union. Of course that is my individual opinion. I am a good deal sectional and partial to my own State.

The CHAIRMAN. That is right.

Mr. LLOYD. Yes; that is right.

Mr. HUNTER. We have people who are the pride of the people who constitute the United States Government. You know it has long been the pride of the United States Government that her people have come from all over the world. It has been the pride of the American people that its population is cosmopolitan in every respect; that it comprises the very best blood of modern Europe and of all those old countries, and we can even go further than that and say that we have a cosmopolitan country in the West, where the blood, brawn, muscle, and brain has still been drawn out from this boasted pride of the American Government. We have that, and I believe in it.

A great many have been interested in questions that are going to be inserted in this constitution. I for one have tried to make it a study, and I have tried to get at it in an honest and sincere way for the good of my people. The great question of liquor is an important question, I know. I am an Indian by blood. I am a Choctaw Indian. I speak the Choctaw language about as fluently as the English. I talk with my people about the wrongs created by it. I know its effects upon them, and as General Porter stated, they inherit the taste, and

they can not help it. That is a fact, but we differ as to the modus operandi of getting rid of it and stamping it out.

I say I differ from some of the good people who have been speaking to us. I would like to follow out what in my mind is the best policy, and the only successful plan that has ever been waged against it, and that is the plan that the great, good missionaries who labored among us for years and years have advocated, and that is the Christianizing of these people, bringing them up and taking the thing into their control and into their hands. I believe that evil can be successfully stamped out in that way, and I will say to them, when the day comes when we shall wage war against that evil, I will walk hand in hand with you, I will take the stump, I will interest myself in that particular more than in any other particular, because I know that is the most essential thing to fight. I know it. Gentlemen, if I exceed my time, call my attention to it.

The CHAIRMAN. Your time has just about expired.

Mr. HUNTER. I just want to add a word about this Sequoyah movement, or single State movement.

Mr. DINWIDDIE. That will not prevent us from finishing this thing, will it?

The CHAIRMAN. We must get through this evening. One moment, Mr. Hunter. Now, if there is no objection, you can proceed.

Mr. HUNTER. I have been out among our own people, and talked their language to them, and have explained the difference between separate statehood and joint statehood, and I will say this from my observation: If this matter, when the matter is presented to them in the proper light, with county seats and every other sort of strange characters, and unnecessary colors left out, that they would want statehood with Oklahoma. They want to command the prestige of a great State. They want to be placed side by side in the ranks of the American States that comprise the American Republic; and we say down there "If you will only give us the opportunity and only make us a sister then you will see us shine."

Mr. WEBB. Do you think the Indians of your tribe are capable of self-government now?

Mr. HUNTER. I do.

Mr. WEBB. Also the other tribes?

Mr. HUNTER. I can not say as to the other tribes.

Mr. WEBB. What is your opinion about it?

Mr. HUNTER. I think the Choctaws are, and the Cherokees, too.

General PORTER. The Indians are as capable of self-government and of administering government as any people in the world. [Applause.]

Mr. DINWIDDIE. Now, Mr. Chairman, I will introduce Rev. J. J. Thomson, of Oklahoma city, superintendent of the Oklahoma Anti-Saloon League.

STATEMENT OF REV. J. J. THOMSON, OF OKLAHOMA CITY, OKLA.

Mr. THOMSON. I am here to represent not myself alone, as most of the gentlemen are who have spoken, but I represent a hundred thousand people. There are 100,000 church members in Oklahoma. These church organizations are united in a great federation, called the Oklahoma Anti-Saloon League. I speak for practically the

whole body. Of course there is a small minority who do not agree with us on this matter, but we speak for the organized and federated churches in Oklahoma, and in that capacity, gentlemen, I believe I have a responsibility to bear and a duty to perform here before you.

I am here delegated by the authority of these organizations and churches to represent them in their request. For example, these churches in their Territorial, and, as we might almost by courtesy say, their State organizations, annual conferences, and so forth—the Methodists (M. E. and M. E. South), Baptists, and Congregationalists, Presbyterians, Cumberland Presbyterians, United Presbyterians, and others, have taken action on this question of prohibition for the new State. But rather than weary you by reading the action of every one I will read you just one or two samples, and the first is the action of the Methodist Episcopal annual conference of Oklahoma:

As Oklahoma looks forward to statehood, we declare ourselves as most positively in favor of the constitutional prohibition of the liquor traffic by Congressional action, by the action of the constitutional convention, and by the vote of the people. We pledge our utmost endeavors to bring this about.

We would memorialize Congress, asking that in providing statehood for Oklahoma a clause be inserted in the statehood bill prohibiting the manufacture and sale of all intoxicating liquors, except for scientific and mechanical purposes.

I have here also the action of the Baptist convention, which I might read. It is practically to the same effect. The report says, in part:

Resolved, First. That the Oklahoma Baptist convention hereby reaffirm its historic position as unalterably opposed to the liquor traffic.

Second. That we favor complete prohibition of the liquor traffic for the new State, whether we may obtain joint statehood or separate statehood.

Third. That this convention memorialize Congress, asking that in providing statehood for Oklahoma a clause be inserted in the statehood bill prohibiting the manufacture and sale of intoxicating drinks.

Gentlemen, all the Oklahoma churches, in their official annual meetings during the past twelve months and the twelve months preceding, at least twice, and, I think, some of them four different times, have passed similar resolutions and sent up memorials repeatedly to Congress asking prohibition for the new State.

I have here a petition addressed to Congress, in three parts or sections, which reads as follows:

To the honorable the Senate and the House of Representatives of the United States in Congress assembled:

We, the undersigned voters, would respectfully memorialize your honorable body asking that, in providing statehood for Oklahoma, you incorporate a clause in the statehood bill forbidding the manufacture and sale of intoxicating drinks in the entire new State, as provided in the Gallinger-Stone amendment to the statehood bill as passed by the United States Senate February 7, 1905.

Last year this petition was presented to the Senate, signed by 20,000 Oklahoma people. Here we have 20,000 more.

These petitions are signed in the first part by voters, then in the second part by women who are so ably represented by our sister, Mrs. Ellis, and then by young people, the boys and girls who will be affected by the action of Congress on this great subject. Forty thousand Oklahoma citizens plead with Congress—plead with you—to give us prohibition statehood. There are 40,000 signers to this petition already and more to follow. They are coming to me by hundreds

and thousands yet. I suppose I will have several more thousand names added to this before it is presented on the floor of the House.

You may ask, "Why do we ask Congress to settle this when so many of our friends in the delegation now say, 'Yes, we are in favor of prohibition, but let us vote it on ourselves.'"

One question only, it appears to me now, remains between those who have spoken on the one side and those on the other, and that is whether Congress shall provide the needed prohibition in the bill or not. We would say, first, we are simply asking that Congress continue the policy of the Government in the past. The policy hitherto has been uniformly prohibition for the Indian country. We are simply "standing pat." We simply say what the attitude of the Government has been, and we ask that it be continued.

MR. MOON. What do you mean by the Government's action in that connection in the past?

MR. THOMSON. The action of the Senate in passing the Gallinger-Stone amendment.

MR. MOON. That does not happen to be the Government.

MR. THOMSON. I mean to say this: The action of the Government in the past has been to maintain prohibition in that country. Then the Senate in making provision for statehood provided for prohibition for the whole State, as it was seventeen or eighteen years ago, when that country was all under prohibition. Now, we ask that this be continued.

MR. COLE. Is not a cardinal principle of the organization which you represent local option?

MR. THOMSON. No, sir; where there is no opportunity for complete prohibition the Anti-Saloon League stands for local option; but that is merely as a measure or step in a general advance. Eventually we hope for the complete exclusion of the saloon from all America and from the whole world.

Now, permit me to say we are eager for immediate statehood, and especially for the only kind of statehood we believe the Congress is willing to give. We are not obstructionists. Prohibition belongs in the bill, and the antiprohibitionist is the real obstructionist.

But why are we not willing to leave it to a vote of the people? Because the nation has promised it, and also because on account of the peculiar conditions that exist there we could not have a fair vote. We know of the appropriation of several hundred thousands of dollars by the brewers of the nation for carrying that election. It has been suggested by a member of our delegation that he would be willing that the question of prohibition be left to the vote of the people if the saloons could be shut for six months before the election and the liquor people's money shut out. The only difference between his idea and mine is as to the length of time necessary for protecting the purity of the ballot. The certainty of their colonizing and corrupting voters makes it necessary that Congress decide the matter for us.

Again, the character of the Indians of Oklahoma makes an additional reason for asking Congressional action. We have about 90,000 Indians, and most of these are blanket Indians. These will be much more easily corrupted by such influences than those of the Indian Territory.

One other phase of the question demands my attention, namely,

why we ask prohibition for the whole State. Oklahoma has saloons, and to force prohibition over that part of the State, our opponents say, is unjust. Since we are to be joined together in one State, if uniform laws are to govern the State, the enabling act must either impose prohibition on Oklahoma or force the saloon on Indian Territory. It is now evident to every member of the committee what an injustice it would be to force the saloon on Indian Territory. It would not be so wrong to bring us under prohibition. Many of our people favor it. Some of these speakers here to-day say a majority are in favor of it, and the petition I am presenting asks it. And while the men who have money invested in the business would be injured financially they can not claim that any inherent rights have been trampled upon. The Supreme Court of the United States has decided, in the case of *Crowley v. Christensen* (137 U. S., 86)—

The right to sell intoxicating liquor, so far as such a right exists, is not one of the rights growing out of citizenship of the United States. There is no inherent right in a citizen to sell intoxicating liquor by retail; it is not a privilege of a citizen of a State or a citizen of the United States.

We all recognize the folly of attempting to make a State half under prohibition and the other half with saloons. Last winter, while the first form of the Gallinger amendment was pending in the Senate, the *Daily Oklahoman* one morning had on its first page in red letters these striking words, "Half wet and half dry; what a mixture we shall buy when in the State we vainly try to be half wet and half dry."

One other consideration, gentlemen, I must ask your indulgence to present. Those parts of the present Territory of Oklahoma where the Indians are located will be unsafe when he have statehood unless we have real prohibition. The decision of the Supreme Court of the United States in the *Heff* case last spring declares that the privileges of an Indian who has received his allotment of land in a State may not be abridged on account of his race any more than those of any other citizen.

If the saloon exists in the new State, the Indian may buy and drink all the intoxicants he wants. The danger to the Indian is great, and the danger to his white neighbors is also great. Our present governor of Oklahoma said to me a year ago:

Large numbers of business and professional men will favor prohibition, many of whom are neither prohibitionists nor teetotalers themselves, because they recognize that the welfare of the Indians themselves and the safety of their white neighbors demand that when the Indian comes to full rights of citizenship he shall not have access to the open saloon.

If there were time to present them I should here give you many examples of the extreme danger to the homes and families of the white neighbors of drunken Indians even now, when it is illegal to sell to them. How much worse will it be when their rights to buy and drink are unlimited?

Gentlemen of the committee, in conclusion permit me to ask you on behalf of these petitioners, on behalf of these churches, and on behalf of the whole people of Oklahoma to protect us from the open saloon—and at the same time protect our Indians from their worst foe, and protect our homes from drunken Indians by putting a clause in the enabling act making prohibition coextensive with the bounds of the new State of Oklahoma.

The CHAIRMAN. Time.

Mr. C. G. JONES. I would like to have the indulgence of the committee, for two minutes by your watch, to introduce a full-blood Indian, Ridge Paschal.

STATEMENT OF MR. RIDGE PASCHAL, OF TAHLEQUAH, IND. T.

Mr. PASCHAL. Thank you, Mr. Jones. I can not make a speech in two minutes, and no other mortal man can. [Laughter.] I will confine myself as much as possible to the subject in hand. I think I am entitled to five minutes.

I have listened to this debate all day. All of you seem to have forgotten a great fact, and that is that on the 5th day of March next there will not be an Indian in the Indian Territory. They will all be American citizens—no better and no worse than any other. [Applause.]

Another thing, you can not put hobbles on a giant. If the State wants prohibition it will have it, and all the enabling acts this side of Christendom won't keep the State tied to prohibition if the State is against it. The Southern States tried to fight their way out of the Union, and the Supreme Court decided that there was no way to get them out, and if they could not fight out, you could not put a State out; if you could, justice to all others would obliterate Nevada from the map. The child of the forest presents you your own official report to show you that prohibition does not prohibit. There are thirty-four hundred drinking places in Kansas and only eleven hundred in Oklahoma. Arkansas, under local option, has fourteen hundred. You have placed extreme prohibition upon my people. I have seen them by the hundreds, accompanied by negroes and whites, go to the penitentiary for violating it. In one Christmas week, in the capital of the Cherokee Nation, as mayor, I fined 18 people for being drunk, and in Kansas City only 22, with open saloons, were fined. So help me God, if I believed that prohibition would prohibit, I would stump the Indian Territory and Oklahoma from one end to the other. For myself I have not taken a drink of whisky in thirty-six years, and do not know what the taste of it is now. [Laughter.]

I want to say this, that if you will go down and look at the conditions in the Territory there you will find that you can not openly get a drink in the Territory; but if you spent a thousand dollars and painted your nose red, and somebody saw you on the street, they would ask you if you didn't want one. [Laughter.] Therefore, I simply say to you, turn us loose. We will behave ourselves. We know how to behave ourselves.

I will say now that I have mingled with the whites, and with every species of whites, and I have been with the Mexican and with the darkey, and in my opinion the full-blood Indian is the most law-abiding man on earth, and every time you galvanize us we inherit some lawlessness.

Now, as to my friend Porter, let the people of his own council express the truth. They said his people did not want to go with Oklahoma or Sequoyah, and said General Porter could not lead them to the separate State movement and then deliver them over to Oklahoma. The full blood does not want a territorial government—Oklahoma or Sequoyah—but wants his own government back, and

the Dutch Jew who comes from London will give him his own government back, and that is all he wants. [Laughter.]

Now, Mr. Chairman, I say this to you: We are cosmopolitan. You, yourselves, have extracted the best from the people of the world, and we people of the Indian Territory and Oklahoma have extracted the best of you. [Applause.] We are your equals in virtue, in intelligence, and in religion, and when we come up here we have to teach Washington how to go to church. [Laughter.]

Just one thing more: When a man tells about his forefather being from Germany, and his grandmother from the Rhine, and another ancestor as having a fine Italian eye, and so on, it is more so that way with us in Indian Territory than anywhere else. Therefore, turn us loose; do not put bonds upon us. You do not restrain other States. Trust us, and if we declare for a license, we will enforce it. If we declare for prohibition, we will enforce that. If we declare for local option, we will enforce that. But let every one of us, Indian or white, be able to say—

Strong-limbed and free I stand, every inch a man,
Not Anglo-Saxon, but American!

(Prolonged applause.)

Mr. SWEET. Mr. Chairman, I do not rise to make a speech. If I had an idea of entertaining you, as my predecessor has done, it would have vanished before this. It had been my purpose to conclude the Indian Territory case in about a five-minute talk, and I had intended to answer with facts several reflections that have been made on the State of Kansas, but I thought perhaps the committee might prefer to accord to me the privilege of printing, in connection with the remarks I made yesterday, what I would say in about five minutes. If the committee prefers that, I would be glad to prepare for the stenographer some statements that I otherwise would want to submit orally now.

The CHAIRMAN. Without objection, the permission desired will be granted.

Mr. KLEPPER. Do I understand that you represent the Anti-Saloon League of Indian Territory?

Mr. THOMSON. Yes, sir.

Mr. KLEPPER. You are not asking for absolute prohibition for Oklahoma?

Mr. THOMSON. Yes; our petition is for absolute prohibition for the whole State for twenty-one years, just as was provided in the Gallinger-Stone amendment, as passed on the 7th of February, 1905.

Mr. KLEPPER. I understood from what you read that you would let them sell it for certain purposes.

Mr. THOMSON. That was passed by one of the churches, but the agreement among us is that there shall be an exception for medicinal purposes. This church, however, mentions the three—medicinal, mechanical, and scientific. We prefer to have the provision as passed by the Senate in the Gallinger-Stone amendment, making that confined to medicinal uses of intoxicants.

Mr. KLEPPER. I just wanted to understand that.

**SUPPLEMENTAL STATEMENT OF REV. EDWIN C. DINWIDDIE,
LEGISLATIVE SUPERINTENDENT OF THE ANTI-SALOON LEAGUE
OF AMERICA, ROOMS 30 AND 31, BLISS BUILDING, WASHING-
TON, D. C.**

Mr. DINWIDDIE. Mr. Chairman and gentlemen: I shall have to be brief, although I had hoped, had there been time, completely to summarize the arguments of our side. For the proponents of the measure, may I have the privilege, in order to get a full statement before the gentlemen who are not here to-day, of extending my remarks in the printed record? There are some things which I want to say, but if thus favored I will not seek to trespass upon your time to say all of them at this late hour.

The CHAIRMAN. Without objection it will be so allowed.

Mr. DINWIDDIE. I thank you, Mr. Chairman and gentlemen of the committee. In order that our respective interests may be fully appreciated, I desire to say at the outset that Mr. Sweet represents the work of the churches and temperance forces in Indian Territory, federated together for prohibition statehood, and auxiliary to our national anti-saloon league. Mr. Thomson represents the same forces in the Territory of Oklahoma. As I stated on Wednesday, I have the honor to represent the national body, which has auxiliaries to-day in about forty States and Territories of the Union, and which practically represents from eight to ten millions of our people.

I do not need to say that the situation in Indian Territory and Oklahoma is unusual and unprecedented. Questions are arising when statehood is being considered for these Territories which have never arisen upon the admission of any other State. These unusual conditions require unusual treatment, but I am quite confident that a satisfactory solution of the question in which we are specially interested can be found without doing violence to any of the cherished principles which have been maintained by either school of political thought in our country.

Before I give an outline of what I believe will be a satisfactory solution, permit me simply to supplement what Mr. Sweet has said concerning the necessity for continuing effective prohibition in the Indian country in some form, by adverting to some startling incidents in the neighborhood of Indian reservations in the Northwest since the decision of the Supreme Court in the *Heff* case has opened up the sale of liquor to what are called allottee Indians wherever they may be, under the recent construction of the act of January 30, 1897. These clippings are not from temperance or religious periodicals, but are from the secular press and from a portion of it which has not been particularly friendly to the temperance question in general.

[Sioux City Daily Press, May 3, 1905.]

TAKEN A CENTURY—FEDERAL SUPREME COURT HAS REDUCED THE LIFE OF THE
INDIAN RACE.

Pendar, Nebr., May 2.—By its decision two weeks ago the Supreme Court of the United States has taken perhaps a hundred years from the life of the Indian race.

This is the consensus of opinion of Indian agents, United States marshals, and United States attorneys who have waged long wars with the bootleggers of western reservations and are entirely familiar with conditions that surround the red man.

"It amounts to simply this," said a Federal officer in discussing the effects of the decision. "The Supreme Court has now made it impossible for us to punish bootleggers selling liquor to reds owning their own allotments. So, in order to secure a conviction hereafter, we apparently must prove that the defendant sold liquor to Indians who had not yet received their allotments. Do you not see that this is a practical impossibility? Under the previous circumstances it has been difficult enough to secure a conviction when sale of liquor to any Indian was forbidden. We must now show, apparently, that the liquor dealer knowingly sold to an Indian who had not received his allotment. This is still more difficult, for the dealer may honestly enough plead that he was mistaken in the identity of the redskin, or had been told he had received his allotment. And even if the dealers do not take advantage of the law to sell indiscriminately to all Indians, it will amount to as much, when any Indian can get all the whisky he wants merely by asking his tribesmen owning allotments to secure it for him. To my thinking, this means that the Indians of America may go on one long spree."

No one who has not seen Indians in a debauch can realize the significance of this decision. The Supreme Court in effect says that Indians having an allotment are American citizens and have the inalienable right of drinking whisky if they want to do so. Anyone visiting the town of Homer, Nebr., for example, could on almost any day see the "American citizens" hauled off to the hovels in the bottom of wagons, paralyzed by liquor. Squaws with babies on their backs can be seen lolling indiscriminately over the bucks. And at the end of their journey they are all dumped out like so many hogs, to lie in a stupor until they recover sufficiently to return to town and repeat the experience.

In villages along the border of every reservation in South Dakota and Nebraska are saloon keepers who justify themselves by declaring: "If we don't sell whisky to the red devils, some one else will."

When it is remembered that the whisky given Indians is the vilest of all concoctions dignified by that name; that Indians are never known to drink liquor in moderation, but gulp it down whole pints without stopping; that the Indian once devoted to liquor never ceases his debauchery as long as he can secure drink, going from one spree into another till his body is wrecked by the poisonous drugs; then the fatal meaning of this ruling by the Supreme Court becomes apparent.

For illustration: A record has been kept of the Winnebago Indians in Nebraska. There are now 1,125 in the tribe. Last year there were 70 deaths and 13 births among its members. For eighteen years the numbers of the tribe have been decreasing 1 per cent annually, a rate which would wipe out the Winnebago in one hundred years. This is without doubt exceptional, for the Winnebago, thanks to a corrupt ring of bootleggers and traders which has operated for twenty years in defiance of the Federal authorities, are the most degraded in the United States.

Figures issued by the Commissioner of Indian Affairs show the total number of Indians in the United States to be 185,000; it being explained that there has been no appreciable increase or decrease in the whole number, except that the full-blooded reds have been falling off in number.

Now, of the northern Indians, the Winnebago, the Omaha and the Sisseton, Yankton and Santee Sioux, have received nearly all their allotments, and the Pine Ridge and Rosebud Sioux will do likewise as soon as their land becomes sufficiently valuable. This means that five big tribes, in these two States alone, may now step boldly into saloons and drink their fill of fire water.

For a quarter of a century the hand of the Federal law has been laid heavily on every saloon keeper, and he has been informed that the sale of liquor to Indians would land him in prison. But now the liquor dealers can mock the officers. They have the indisputable right to keep the reds in a state of constant intoxication. With the records showing that with all the protection of the Government the full-blooded Indians of the United States have been falling off, it is apparent that the downward push of this court decision will subtract decades from the period during which the red men of America have been destined to live.

[Argus-Leader, Sioux Falls, S. Dak., May 2, 1905.]

FIRST TASTE OF IT.

The town of Homer, Nebr., which borders on the Winnebago Reservation, is getting the first taste of the practical workings of the recent decision by the Supreme Court of the United States, declaring it to be legal to sell intoxicating liquors to Indians holding lands in severalty.

A dispatch from Homer says that for the last week drunken Indians—men and women—have made Homer “a hell on earth.” The climax came last Friday, when a fight started which lasted all the afternoon and far into the night. The city marshal was beaten into insensibility, decent citizens were driven off the street, people on the highways used by the drunken Indians on their return home had to run for their lives, and, all in all, it was a perfect saturnalia, which, no doubt would greatly have shocked the gowned and sober judges whose foolish decision made it possible.

Homer is a license town, but it is not likely to be again. The question of granting licenses will come up before the town board to-day, and the business men—usually in favor of license—have held a meeting and reached a practically unanimous agreement to go before the board to-day and protest against the granting of licenses for the coming year. The report from Homer says that “dozens of Indians and squaws” could be seen lying about the streets in a drunken stupor, and that “dozens of fights and drunken brawls” resulted from the indiscriminate sale of fire water to the reds.

So far no South Dakota towns have reported such scenes, but that they will inevitably follow the decision of the Supreme Court no one doubts. Crime will be increased, and the expense of maintaining even a decent show of law and order will be terrific, unless on a rehearing the Supreme Court shall reverse itself, or unless the border towns adopt the probable policy of Homer and go it dry—a solution which, under the circumstances, does not promise well.

There has not been a speaker on the other side who has taken the ground that some adequate provision should not be made to safeguard both the Indians from drink and the Indian's neighbors from the well-recognized consequences of his drinking. The whole issue, therefore, turns largely upon the question as to how this protection is to be afforded. Seriously, no one who is acquainted with the conditions in that country will gainsay the statement that to keep liquor away from the Indians generally it is necessary to keep liquor out of the Indian's country. So long as these Territories remain such, the Federal Government can carry out its treaty stipulations with the Five Civilized Tribes and prohibit the introduction and sale of intoxicating liquors in that country. I shall not digress to advert to the language of these treaties, nor to argue the point that the opponents of our amendment from Oklahoma and Indian Territory are seriously in error when they contend that these treaty obligations end on the 4th of March, when on their very face, as a matter of fact, they virtually commence on that day; and, further, that the Indians themselves would in all probability have flatly refused to execute these treaties with the Dawes Commission had these express stipulations concerning the prohibition of liquor selling not been incorporated therein, because all of these facts, I think, have been fully and conclusively set forth in the argument by Mr. Sweet.

Our difficulty begins when it is proposed to substitute statehood for the Territorial governments in that country. The control of the liquor traffic within a State is essentially a police regulation, and the Federal Government can not exercise police powers in a State. I am aware that it has been claimed that the Federal Government could exercise some control over this subject in a State if, in their organic

law, the State and the people of such State should expressly give their consent. On the other hand this position is strongly controverted, and in the present case it is needless to argue it, for the same objection which is urged to our amendment on the ground that to a certain extent it takes the settlement of this question out of the hands of the people of the new State and leaves it with the Federal Government, could be successfully invoked against the proposition for the exercise of any degree of Federal jurisdiction.

Under these circumstances what can and should be done? I feel confident that we have made our case as to the obligation of the Federal Government to continue the prohibitory policy in the Indian country. It must be universally conceded that these obligations can be discharged so long as the United States exercises its control over these Territories. On the other hand, we admit that Federal jurisdiction ceases upon the admission of these Territories as States or as a State. But the people are clamoring for statehood, and practically everybody who is acquainted with the magnificent territory which they possess, the fertile soil, fine climate, enterprising and thrifty people, and all the natural resources which they can boast, must admit that by every token they are entitled to admission into the Union of the States. But I do not believe, Mr. Chairman and gentlemen of the committee, and in all this I speak in my representative capacity, that they are entitled to statehood enough to justify them in asking that solemn obligations of our Federal Government shall be wantonly disregarded. I do not think the case could be better stated than it was in the speeches of Senator Stone of Missouri, and Carmack of Tennessee, reflecting, as they do, the trend of the political thought of the minority on the general question of the relations between the Federal Government and sovereign States. In a speech in the Senate on February 3, 1905, in discussing this question, Senator Stone said:

I believe the conditions in Indian Territory, as well as in Oklahoma, are such that laws of this character would be wise, if not necessary, for a time at least, and so I am in favor of requiring the new State to agree in its constitution to the policy of prohibition. The forty thousand full-blood Indians in these Territories should not be suddenly subjected to the dangers incident to the free use of intoxicants. If later on the people of the State desire to change their policy in that behalf, it can be done; but I think they should start with prohibition.

On February 7, continuing the discussion on the Gallinger-Stone amendment, Senator Stone made use of the following language:

I believe as strongly as the Senator from Mississippi or any other Senator in upholding all the reserved rights of the States. I am as much opposed as man to invading what all of us understand to be the rights and privileges of any man to invading what all of us understand to be the rights and privileges of

I do not think it would encroach upon any right guaranteed to or reserved by the States. Undoubtedly Congress has the right to prescribe the conditions upon which a Territory shall be admitted as a State into the Union. Unusual conditions, or those which would tend to impair the rights of the State or to undermine our theory of government should not be imposed. But nothing of that kind is involved in this amendment. The thing proposed by this amendment is neither improper nor unusual. The same fact has been done before by different States. * * * I do not think the State of Missouri should have a single right that the State of Oklahoma should not enjoy to the fullest extent. We are absolutely agreed as to that. Mr. President, the conditions here are peculiar and unusual. The emergency is great for some protective legislation of this kind. What is the proposition before us?

It is that the people of the two Territories shall incorporate in their constitution a provision that the manufacture and sale of intoxicants shall be prohibited, and this is made a condition precedent for the admission of the State. Congress clearly has a right to impose that condition. The thing to be prohibited should be prohibited, as all agree. We have prohibited polygamy and slavery in new States, and why not whisky? Ordinarily I am opposed to sumptuary laws of this kind, but under the circumstances facing us in this instance I believe this amendment should carry.

The people are to vote upon the proposition to put this clause in their constitution. After the admission of the State the people can change the constitution if they wish. Nothing would stand in the way of changing the constitution in this particular, or in any particular, except the question of good faith.

This is not an attempt by Congressional act to impose a police regulation upon the people of the State. We simply require the insertion of this clause in the constitution as a condition precedent for the admission of the State, and after the State is admitted, having started them upon this line, we then leave the continuation of the policy so established to the people of the State. They can continue the prohibition or end it; as they please. We simply start the State on this road.

Mr. President, some legislation of this kind is imperative because of the peculiar conditions prevailing in those Territories.

While the same amendment was under discussion on the day the Hamilton-Beveridge bill was finally passed in the Senate, Senator Carmack, of Tennessee, used the following language:

Mr. President, I did not vote for the amendment offered by the Senator from New Hampshire the other day, because I did not believe that the Federal Government could rightly extend the exercise of police power within the boundaries of a State, while I was entirely in sympathy with the object sought to be accomplished by the Senator from New Hampshire and am willing to go as far as possible to accomplish that end.

We have incurred certain treaty obligations with these Indians with respect to the sale of liquor, and it is the duty of the Government to discharge those obligations. Whenever the Indians become citizens of the United States and of a State, of course all treaties with them are at an end. There can be no such thing as a subsisting treaty between the United States and its own citizens. But so long as that Territory is kept in the condition of a Territory the United States, by the exercise of its own police powers, may discharge the obligations of the treaties. It can not, of course, surrender its power to another government and then claim the right by reason of the obligation of the treaty. It must keep itself in a condition to perform the obligation of that treaty. To do that Congress has a perfect right to say to the people of that Territory, "We must prevent the sale of whisky within the Territory, and in order to do that we must keep you in a Territorial condition, or if you wish statehood in the Union you must give us assurance that you will discharge those obligations.

In this connection, permit me to advert to a question which Mr. Lloyd asked Mr. Sweet the other day, and which I think Mr. Sweet did not entirely grasp on account of his distance from Mr. Lloyd; but I have no hesitancy in answering it, because it simply shows the tactical position which we were compelled to take in the last Congress. As I have said, I think we have a right to ask that this prohibition be continued in perpetuity. If we were to carry out the treaty stipulations of the Government, I think we would have the right to expect that the powers of the Federal Government would be exhausted to continue this prohibition indefinitely. But, if these Territories are to be admitted as a State, the best thing that we can do is to require them to start with the prohibitory policy in harmony with these treaties, and under practical promises that it shall be continued for a period of twenty-one years and until the people shall otherwise decree.

Mr. MOON. When do these obligations end? Do you say on the 4th of March?

Mr. DINWIDDIE. No, sir; on the contrary, they really begin then, for prohibition now obtains and did then by Federal law.

Mr. MOON. The treaty obligation is purely moral.

Mr. DINWIDDIE. That is true in the sense that the Federal Government now, in so far as the law is concerned, can ignore these treaties.

Mr. MOON. If the best policy for the country should indicate or demand a change in treaty obligations, you would not for a moment think that it ought to be changed, would you?

Mr. DINWIDDIE. There is no necessity for not safeguarding the Indians in the matter of the sale of liquor in their country as far as the Federal Government can while admitting these Territories to statehood.

Mr. MOON. I am frank to say, so far as I am personally concerned, that I am very much in sympathy with you, but I may be pardoned for saying I have not been able to help my friends very much along those lines because they are generally too radical in their demands, although my sympathies are with you in that direction. What advantages will you gain by having a clause inserted in the constitution now over the proposition which I suggested a while ago? You will recollect that was this: If we put a clause in the constitution to the effect that "liquor shall not be manufactured, sold, or given away in any public or private place in Oklahoma, except under such restrictions and limitations as the legislature thereof may provide." Now, do you get any advantage in your proposition over that?

Mr. DINWIDDIE. We get no advantage under that.

Mr. MOON. Why not?

Mr. DINWIDDIE. Because the legislature under the constitution has absolutely plenary power over the subject-matter.

Mr. MOON. You get the suggestion of a new State that it is opposed to the liquor traffic, that it is in favor of prohibition, and you leave to the new State the determination of that question afterwards by its own people. In other words, it preserves the right of local self-government in connection with this prohibition matter. Now, I believe as firmly in prohibition interests as you do, but I have more interest in the doctrine of self-government than in prohibition, and whenever you try to destroy one or other of them I shall always stand for local self-government.

Mr. DINWIDDIE. I do not think you will destroy that because the people will pass on it when they adopt their constitution. They can accept or reject the constitution containing this provision.

Mr. MOON. You would put in the constitution now that it shall never be manufactured or sold, and your people have the power at any time to overturn it. The constitutional convention, as the State of Virginia did on the suffrage question, could absolutely overturn your amendment and make another law. What advantage is there in your making this contention in this way?

Mr. DINWIDDIE. The other proposition simply leaves with the legislature this matter which is not inserted, and our contention is without such insertion it is necessarily left with the legislature anyway. By inserting this provision we have a statement of the Congress of the United States that the people of the Territory, if they ask for statehood, are required to take over certain responsibilities upon themselves, and if we give them statehood they are required to accept our obligation to carry out these treaty contracts. If they fail to con-

tinue it after statehood, that is their responsibility if they become a sovereign State, and there is nothing but the question of good faith to deter them.

Mr. MOON. You can not make them keep it.

Mr. DINWIDDIE. I agree with you, Judge.

Mr. MOON. It occurs to me this way: It is the moral forces that are going to control there anyhow, and if you proceed with prohibition absolutely, without any power in the legislature to regulate the liquor traffic, I am afraid you will find the result will be this, that after operating under the constitutional amendment for a while your people will overturn the constitutional amendment and establish your liquor traffic, and go into greater excesses than if you had started in the first place moderately and had an inhibition in the constitution. You can not prohibit by law absolutely. You have to have a moral force behind it.

Mr. DINWIDDIE. We have done a good deal in Tennessee, Judge.

Mr. MOON. Yes, I am from Tennessee, and with that experience I think the State of Tennessee is in the best condition to-day of any State in the Union in regard to that matter, and it is simply because we have obeyed the voice of the people in the law of the land.

Mr. DINWIDDIE. You exclude saloons by vote down there?

Mr. MOON. Certainly; we built the sentiment to do it. We said thirty years ago that liquor should not be sold within 4 miles of any incorporated institution of learning. It took a very hard fight on the part of the temperance people to maintain that position, but it was a moderate one, and it was maintained. We took the next step this way: You shall not sell within 4 miles of any schoolhouse or institution of learning, whether incorporated or not. There came another test, and the temperance people, having proceeded with moderation, won. They would have lost out, however, if moderation had not been followed. Then we came to the towns, and then to towns of 5,000 people, so that to-day whisky can not be sold in the State of Tennessee except in about seven places—seven cities. If we had not proceeded with moderation, if we had adopted a prohibition amendment to the constitution, that work would never have been done.

Mr. BAKER. You brought that about by rescinding charters of your municipalities?

Mr. MOON. Yes; a good deal was done in that way.

Mr. DINWIDDIE. I can not defend the proposition that the Government is under obligation to extend this régime that we press for over Oklahoma, but I believe the Government ought to maintain it, and if these Territories are admitted to statehood the Government ought to require as a precedent to statehood the taking over, on their part, of these obligations that now rest upon the Government.

Mr. COLE. Do you think the argument that applies to Tennessee will apply to this case?

Mr. DINWIDDIE. No, sir; Tennessee is one of the old States of the Union. I do not think the conditions are at all alike. I know the conditions in the Indian Territory. Here is Texas on the south, with its saloons excluded in probably three-fourths of her area; Arkansas is about the same, on the east; and on the north, Kansas—a prohibition State—I have not time to take that up. I have been out in the country, and I have relatives all through it, and I know the conditions there. With the exception of a few cities, the prohibitory law

of Kansas is well enforced. I know what the conditions are in that country.

The liquor men are just waiting to swoop down on Indian Territory. I believe we are fair to all interests, and by our amendment we simply hold what has practically been dedicated to prohibition by Federal authority, by Congress, and the Executive, and we do not disturb conditions generally in those parts of the new State where liquor selling is not prohibited by law now. This seems fair all round.

The CHAIRMAN. We are under a moral obligation to the Indian?

Mr. DINWIDDIE. Yes.

Mr. MOON. If we can just protect the Indians, you think it does not matter what becomes of these Oklahoma fellows? [Laughter.]

Mr. DINWIDDIE. No; I can not give a consistent argument to defend them, because I happen to be a little of a State's rights man myself, notwithstanding the fact that I come from Ohio. One proposition I believe in thoroughly is to allow the States to settle the question within themselves in their own way. But here we have the right to allow the State to do this because it votes upon the proposition before it comes into the Union of States, but it has no right to ask admission as a State in the Federal Union at the expense of our national honor upon this proposition.

Mr. BAKER. How about the reservations?

Mr. DINWIDDIE. They are likewise affected. If we can safeguard those points and make the laws effective, that is all we contend for. But if you want to throw Oklahoma on us, as the Senate did last year, and incorporate Oklahoma with the Indian Territory, we will not refuse to accept it.

Mr. MOON. Do you know of any such amendment to any State constitution before it was admitted into the Union?

Mr. DINWIDDIE. No; not exactly like that, but there have been limitations upon States seeking admission to the Union before.

Mr. MOON. As to the suggestion I made a while ago, as to prohibition to start with, with the right of the legislature to restrict the sale of liquor—I don't want it to be understood that it is an original idea of mine, although I favor it very much. It is a provision in the law of one of our Territories.

Mr. DINWIDDIE. Hawaii?

Mr. MOON. Yes. That was the judgment of both Houses of Congress on that question at that time.

Mr. DINWIDDIE. But Hawaii is still a Territory, and Congress is the supreme law making power. We are proposing now to take this country down there out of a Territorial condition and make it a State.

The CHAIRMAN. Mr. Dinwiddie, when you extend your remarks, will you present, for the information of the committee, your views as to our authority to extend prohibition to only a certain part of the Territory and cite such instances as you may be able to?

We have never as a national body asked for prohibition in the entire new State of Oklahoma until after the Senate voluntarily extended the scope of our amendment last February. We were grateful for that and could not truthfully say that we did not want it. And even now if it shall appear that the necessary protection can not be secured without covering the territory of the entire State, I think Congress would be fully justified in going that far in order to

carry out its obligations to the Five Civilized Tribes. I have been asked by the Chair to present to the committee what we would be satisfied with as fitting the present emergency, and I say that the Gallinger-Stone amendment, made applicable to the Indian Territory and the Indian reservations in Oklahoma, together with the territory in the proposed new State lying contiguous thereto, with the maximum penalties eliminated and a carefully drawn provision for the sale by agencies for proper medical and mechanical purposes, would, in my judgment, be a satisfactory provision all around, or as nearly so as can be devised.

Mr. DINWIDDIE. Yes, sir; with pleasure. I will brief that.

The CHAIRMAN. Yes; as soon as you can get your remarks in shape, we would like to have them. Provision was made to print eighteen hundred copies of these hearings.

Mr. JOHNSTON. Mr. Chairman, there is one thing that I would like to have settled. I am going back home to-night. That question is the capital. I just ask if you can not leave that to the people. Do not put it off until 1908, so that we can get it out of politics.

The CHAIRMAN. We might possibly compromise on ten years. That may be agreed upon as a compromise. Other gentlemen, members of the committee, may not agree with me upon that. I thought when you arose that you were going to speak about court towns. The idea of the Chair was that we could not open up hearings in reference to court towns. But a good plan would be for gentlemen interested in court towns to submit briefs to the subcommittee, and we would go over them with great care. On final analysis it will be adjusted in cold blood with a view to doing justice to all the people there, without regard to time.

Mr. LLOYD. I suggest that in submitting these statements with reference to court towns, we limit them to six hundred words apiece. There are at least twenty towns, and twenty towns with six hundred words each would make twelve thousand words.

The CHAIRMAN. You can not possibly restrain the enthusiasm of gentlemen in relation to their towns.

Mr. LLOYD. When can we read them, then? Mr. Jones is very anxious to have the privilege of extending his remarks in the record to a limited extent.

The CHAIRMAN. Without objection, then, Mr. Jones will be permitted to extend his remarks. The Chair would state that all those who desire to submit briefs in relation to court towns had better submit them not later than the middle of next week. Wouldn't that be a fair suggestion?

Mr. LLOYD. Say the 20th of December.

The CHAIRMAN. Yes; Congress will adjourn for the holidays on the 20th or 21st, and all these briefs should be in by that time.

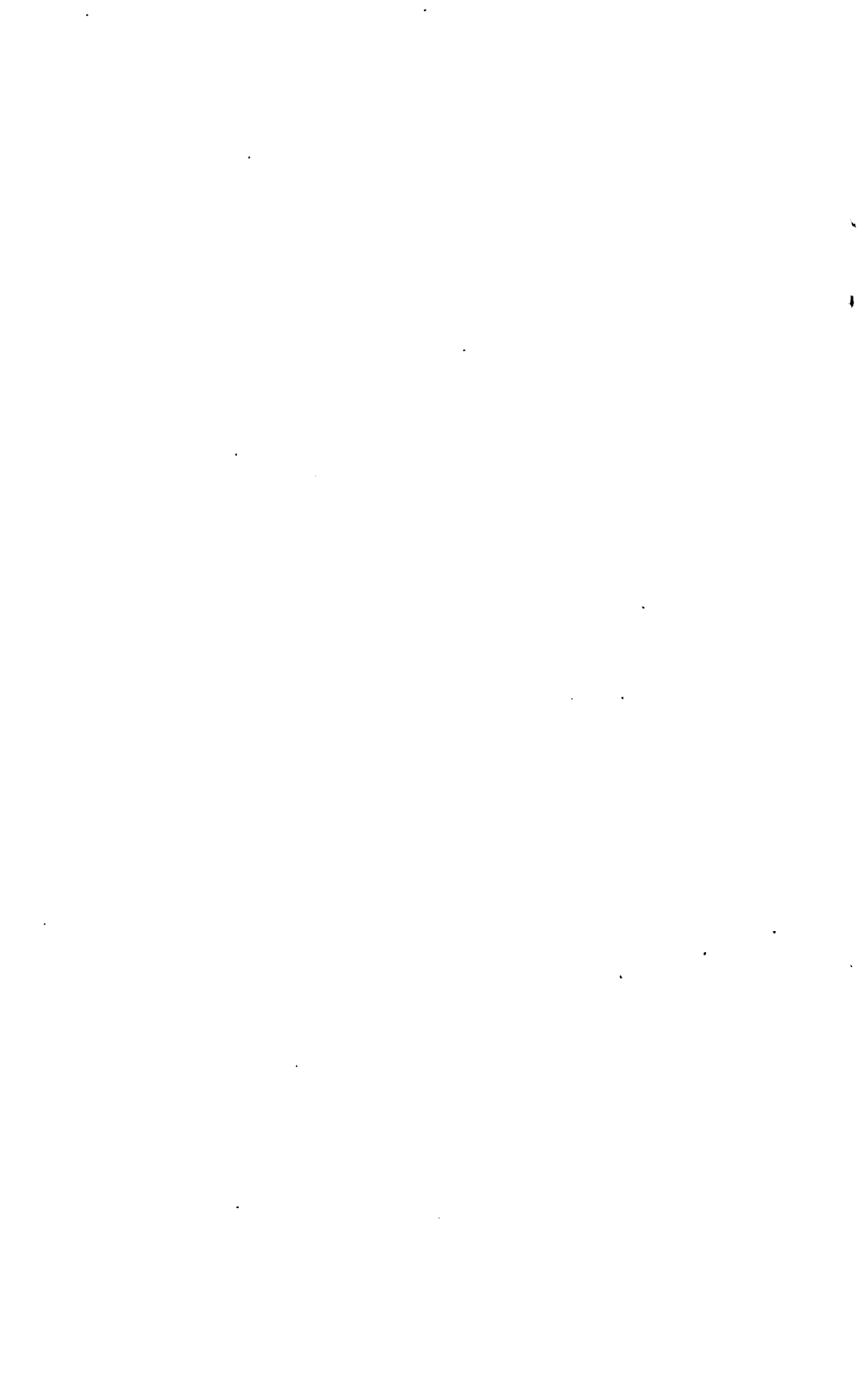
I do not think this committee has made a suggestion as to when we shall meet again.

Mr. LLOYD. I move that we meet again at the call of the chairman.

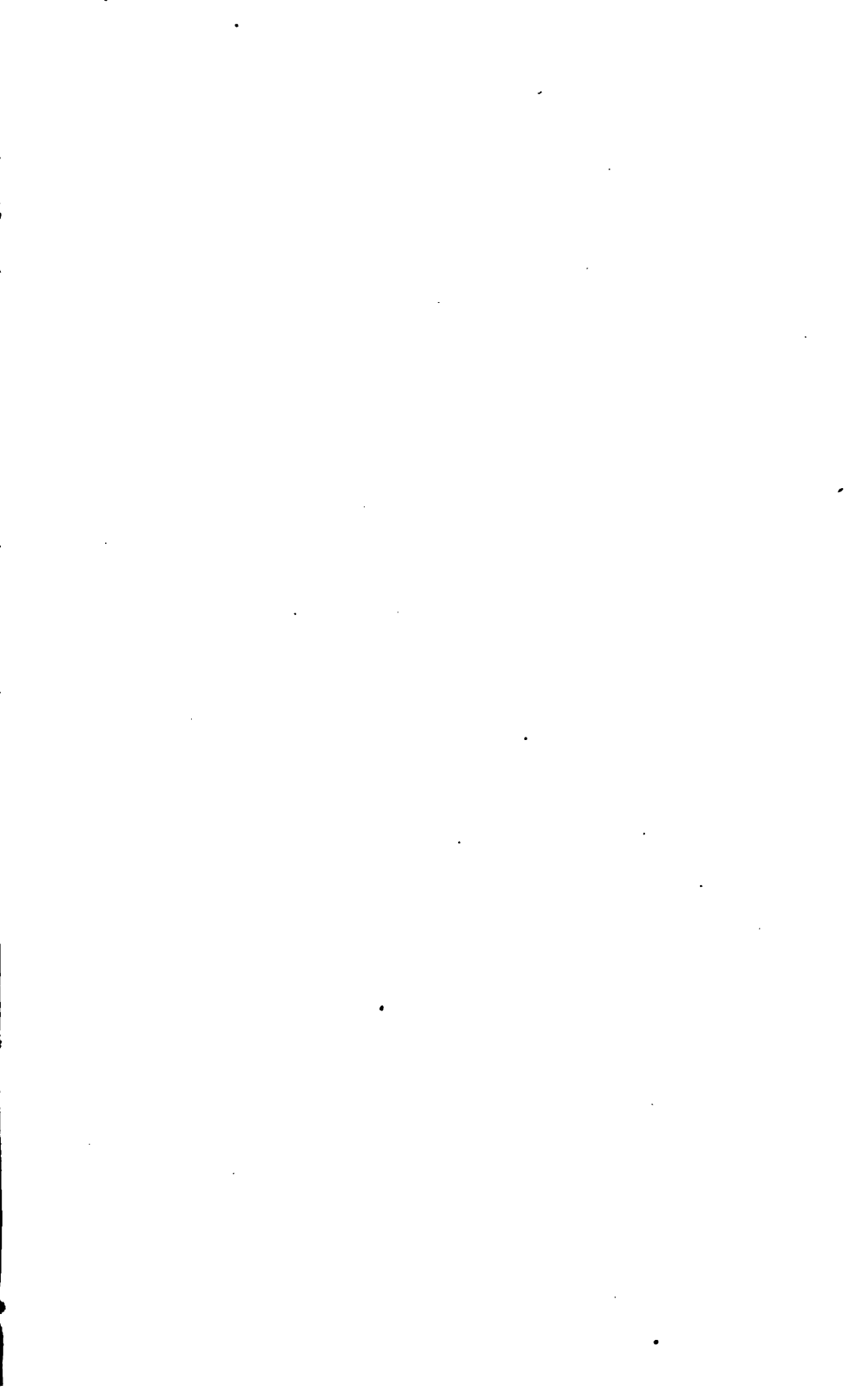
The CHAIRMAN. You have heard the motion, gentlemen. All in favor of the motion will say "aye." The ayes have it, and the committee stands adjourned.

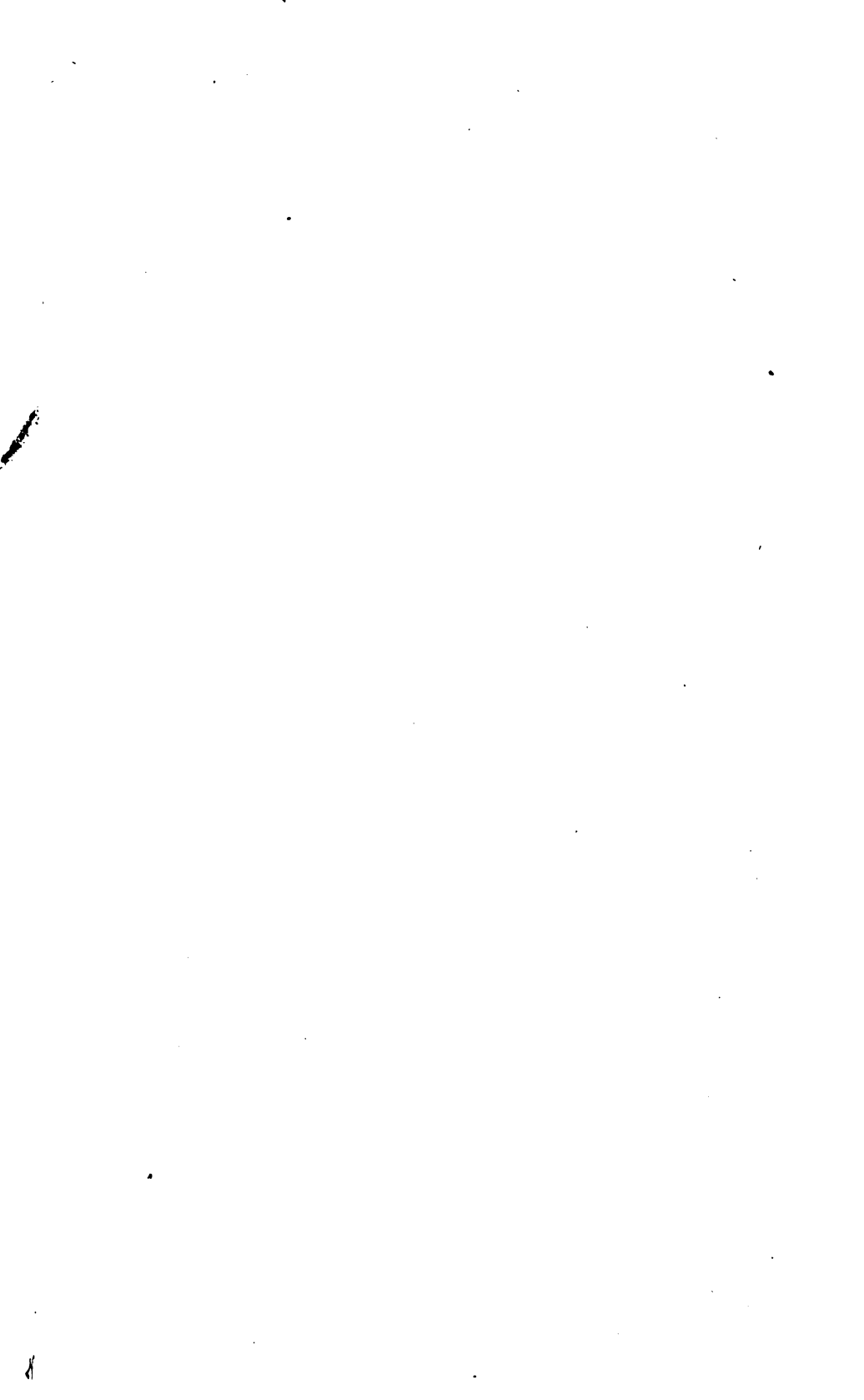
Thereupon, at 5.45 o'clock p. m., the committee adjourned, to meet again at the call of the chairman.

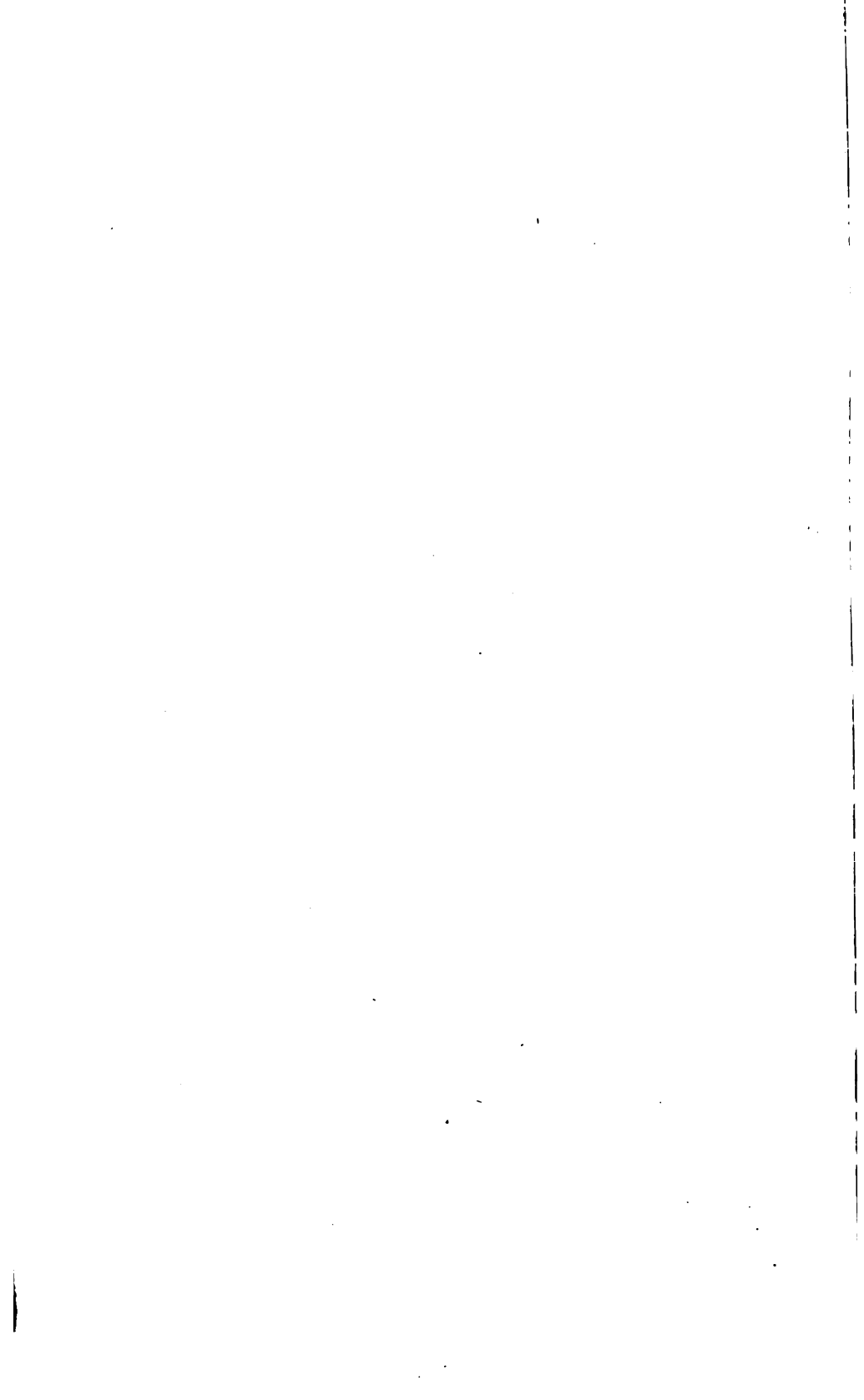


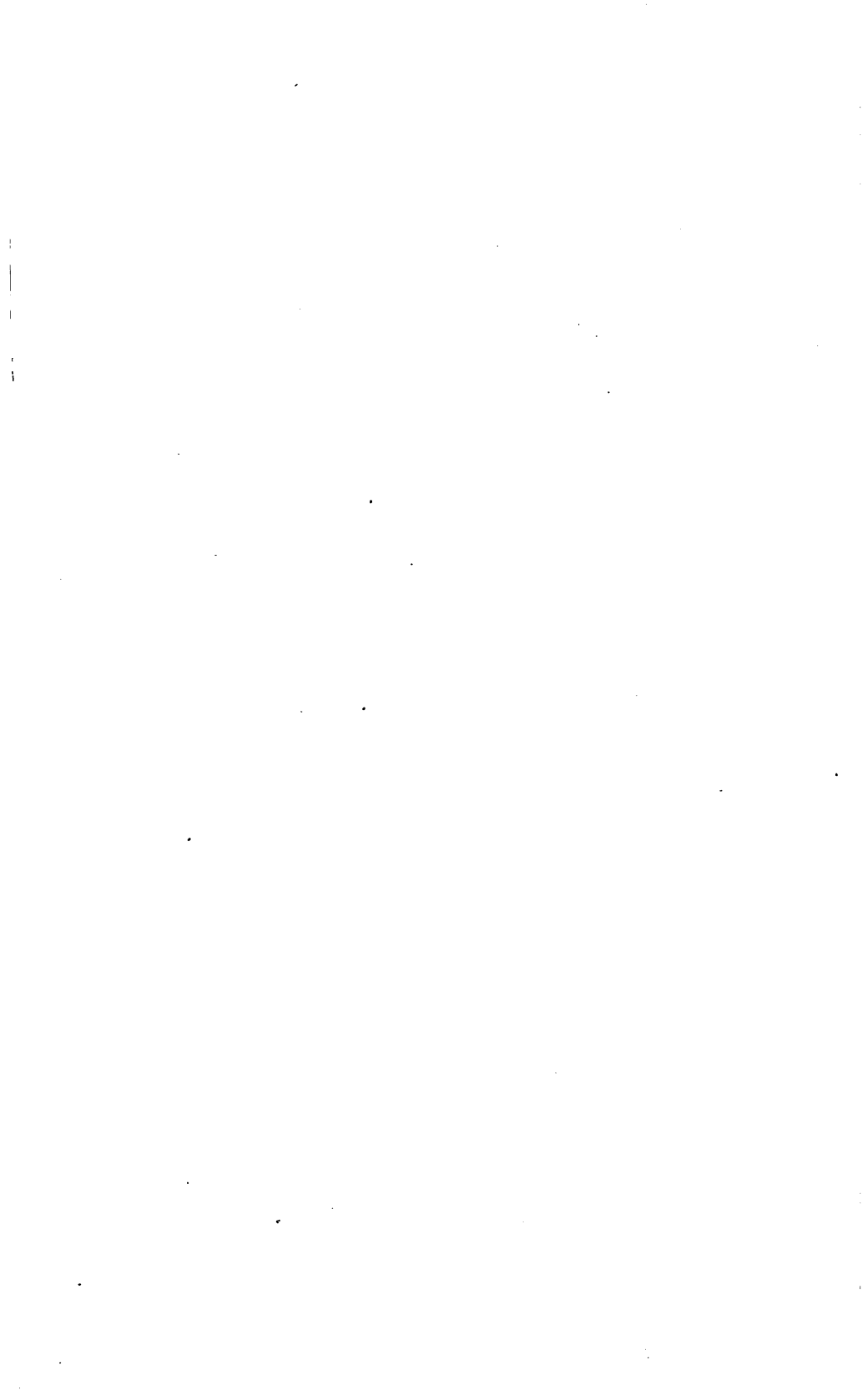






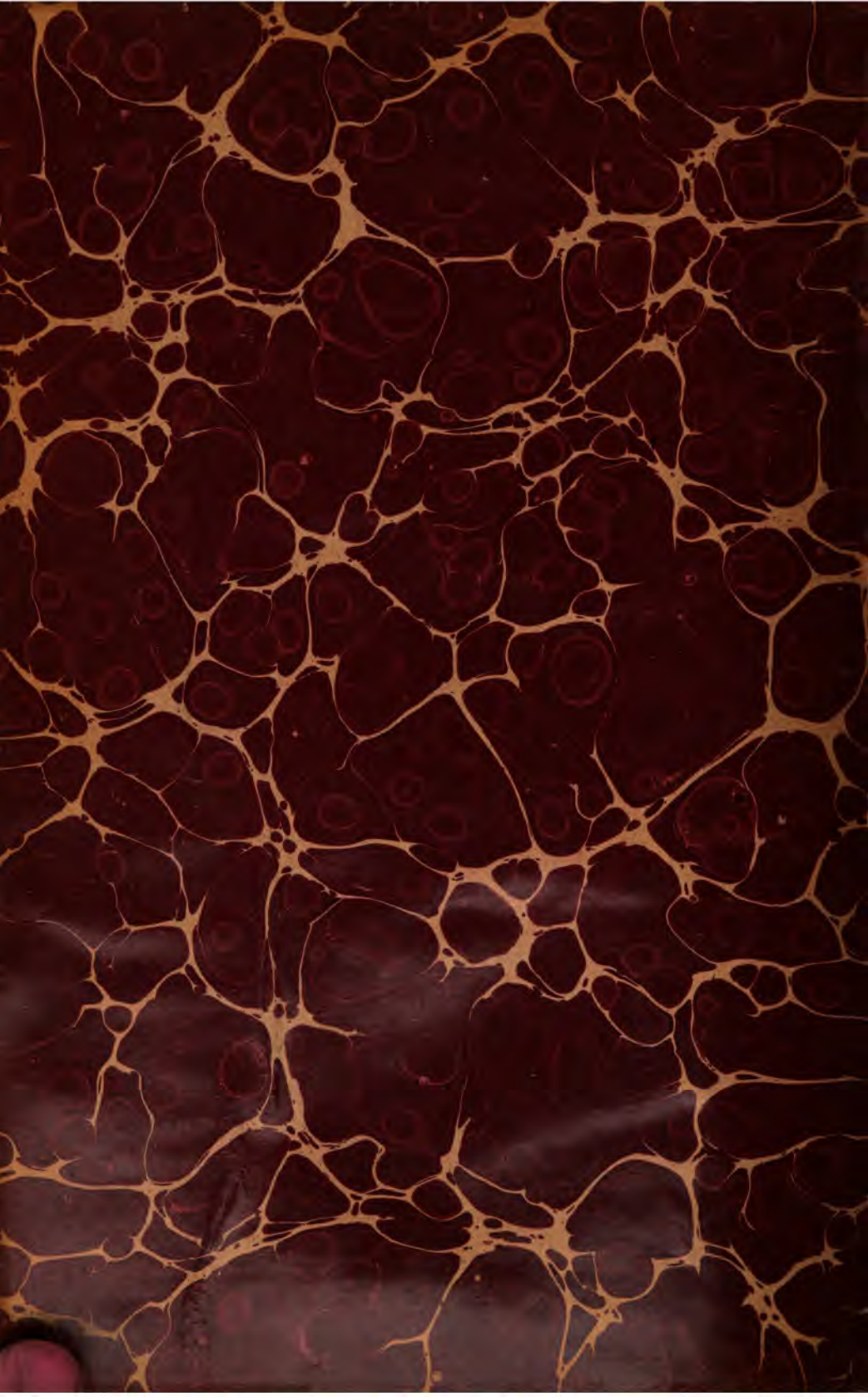


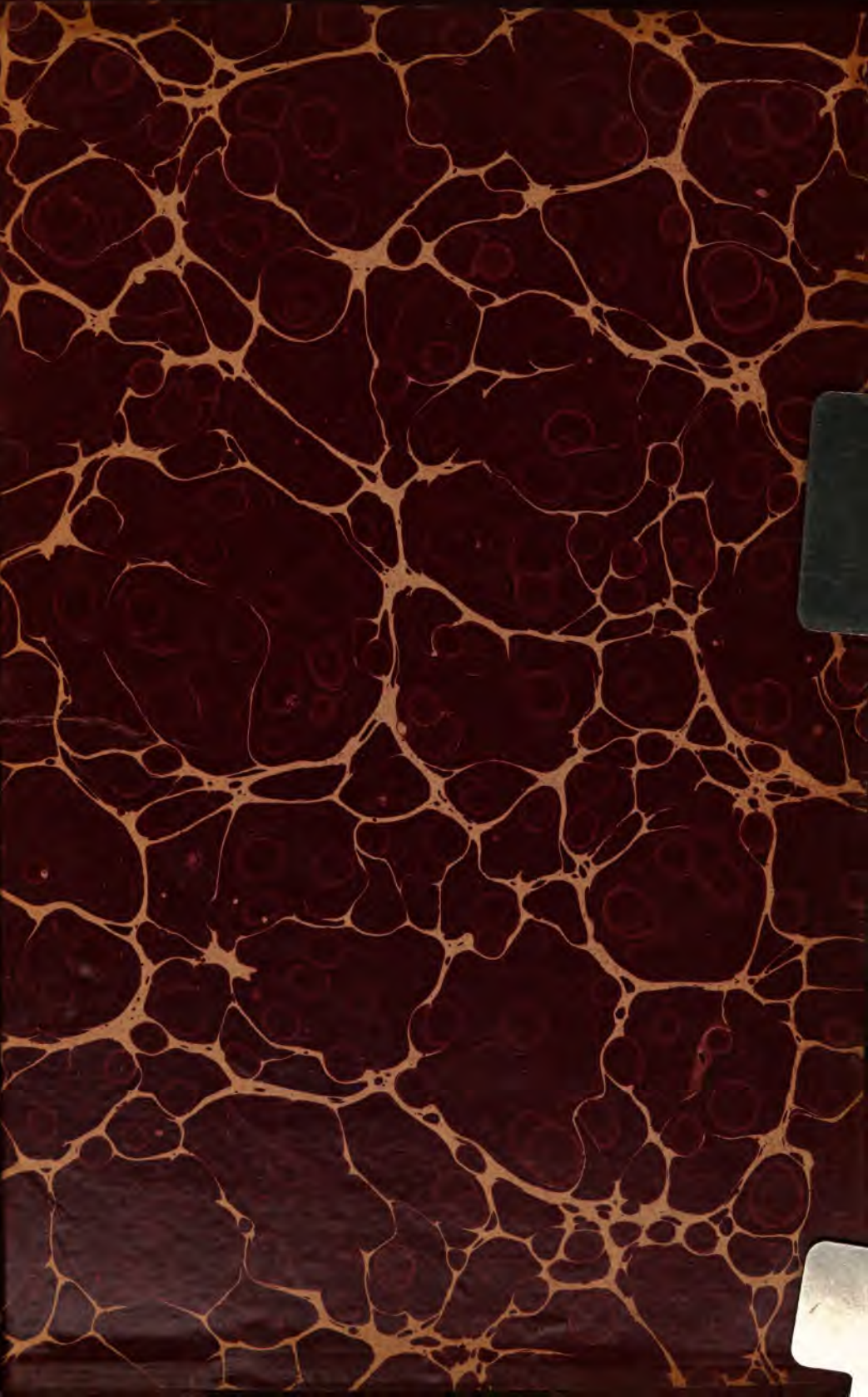




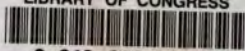








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